SB

125

Alaska State Legislature

Senator Curt Menard

While in Session:
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

Senate District
E

TO: Senator Arliss Sturgulewski
Chair - Senate Health, Education and Social Services Committee

FROM: Senator Curt Menard

DATE: March 25, 1991

RE: Additional packet materials for:
SB 125: "An Act relating to pharmacies located outside of the state"

Thank you for scheduling a public hearing on the above referenced bill. Please find attached additional information for the committee packets.

1. Letter of support: Alaska Pharmaceutical Association
2. "Seniors: More drug use, more adverse reactions" Senior Voice, April 1990
3. Letter of support for 1990 bill [HB 508]: Legal counsel for Medco Containment Services
4. Letter from Dept. of Administration regarding 1990 bill [HB 508]: Legislation will not effect state health insurance plan
5. Research dated January 26, 1990
6. Research dated February 6, 1990
7. Suggested amendments to SB 125

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Senate District E

TO: Senator Arliss Sturgulewski
Chair - Senate Health, Education and Social Services Committee

FROM: Senator Curt Menard

DATE: March 7, 1991

RE: SB 125 "An Act relating to pharmacies located outside of the state"

I am writing to request that the above referenced bill be scheduled for a hearing before the Senate Health, Education and Social Services Committee at your earliest convenience.

There is a growing number of mail order pharmacies doing business in the state who are not accountable to their Alaskan customers. SB 125 adddresses this consumer protection problem and provides reassurance to Alaskans who rely on those services.

This legislation requires any pharmacy located outside of the state that ships, mails, or delivers prescription drugs into Alaska on a routine basis to register with the Alaska State Board of Pharmacy. In order to register the pharmacy must provide specific documents that indicate compliance with licensing requirments in their home jurisdiction. The bill sets reasonable standards of disclosure to the Alaska Board of Pharmacy.

The most important requirement of this bill is the provision for out of state pharmacies to provide a toll free telephone services at least 40 hours a week and at least six days a week. When questions or problems resulting from prescription medication arise, it is imperative that the customer or medical responder be able to contact the dispensing pharmacist.

This legislation provides important measures to protect the health, safety and welfare of Alaskan consumers. Your support is greatly appreciated.

WE SUPPORT
MADE IN ALASKA

7-LS0713\A.1
Bannister
03/22/91

AMENDMENT

OFFERED IN THE SENATE BY SENATOR MENARD

TO: SB 125

Page 1, line 5:

Following "that":

Insert "regularly"

Following "drugs":

Delete "into"

Insert "to consumers in"

Page 2, line 14, following "state":

Insert "and subject to this section"

Page 2, line 18, following "that":

Insert "is subject to this section but"

Page 2, following line 29:

Insert a new subsection to read:

"(g) The board shall by regulation define "regularly" for this section."

Page 3, line 5:

Delete "other than a nonprescription drug"

Insert "that requires a physician's prescription before it may be dispensed"

SENATE HESS COMMITTEE

AMENDMENT
SENATE BILL 40

Page 3, Line 1:

(i) (3 courses: 9 semester or 12 quarter hours) courses in marital and family therapy:

(ii))) (3 courses: 9 semester or 12 quarter hours)courses in marital and family studies;

(iii)) (3 courses: 9 semester or 12 quarter hours) courses in human development

(iv) (1 course: 3 semester or 4 quarter hours) in professional studies or professional ethics;

(v)(1 course: 3 semester or 4 quarter hours) in research; and

SENATE BILL NO. 125

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR MENARD

Introduced: 2/13/91
Referred: HES and Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act relating to pharmacies located outside of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 08.80 is amended by adding a new section to read:

Sec. 08.80.158. REGISTRATION OF PHARMACIES LOCATED OUTSIDE OF STATE. (a) A pharmacy located outside of the state that regularly ships, mails, or delivers prescription drugs into the state shall register with the board.

(b) A pharmacy registering with the board under (a) of this section shall furnish to the board annually

(1) the location, names, and titles of all principal corporate officers and of all pharmacists who are dispensing prescription drugs to residents of the state;

(2) a copy of a current valid license, permit, or registration to conduct operations in the jurisdiction in which it is located, and a copy of the most recent report resulting from an inspection of the pharmacy by the regulatory or licensing agency of the jurisdiction in which the pharmacy is located;

(3) a sworn statement indicating that the pharmacy complies with all lawful directions and requests for information from the regulatory or licensing authority of the jurisdiction in which the pharmacy is licensed; and

(4) proof satisfactory to the board that the pharmacy maintains its records of prescription drugs dispensed to persons in the state so that the records are readily retrievable from the records of other prescription drugs dispensed by the pharmacy.

(c) A pharmacy subject to this section shall, during its regular hours of operation, provide a toll-free telephone service to facilitate communication between persons in the state and a pharmacist at the pharmacy who has access to records concerning the dispensing of prescription drugs to persons in the state. The toll-free number and the hours that the service is available shall be disclosed on a label affixed to each container of drugs dispensed to persons in the state. The telephone service shall be available at least 40 hours a week and at least six days a week.

(d) The board may, after a hearing, deny, revoke, or suspend the registration of a pharmacy located outside of the state if the pharmacy fails to comply with the requirements of this section, AS 17.20.080 - 17.20.135, or AS 17.30.020 - 17.30.080, or if the license, permit, or registration of the pharmacy is denied, revoked, or suspended by the licensing or regulatory agency of the jurisdiction in which the pharmacy is located.

(e) A pharmacy located outside of the state that is not registered with the board under this section may not ship, mail, or deliver prescription drugs into the state and may not advertise its services in the state.

(f) A pharmacy subject to this section shall appoint a registered agent in the state who is empowered to accept, on behalf of the pharmacy, process, notice, and demand required or permitted by law to be served upon the pharmacy. If the pharmacy fails to appoint an agent under this subsection, if the registered agent cannot with reasonable diligence be found at the registered office, or if the registration of the pharmacy is suspended or revoked, the commissioner of commerce and economic development is an agent upon whom process, notice, or demand may be served. Service is made upon the commissioner in the same manner as provided for corporations under AS 10.06.175(b), except that for the purposes of AS 10.06.175(b)(2)(A), the address shall be the last registered address of the pharmacy as shown by the records of the board.

* Sec. 2. AS 08.80.160 is amended by adding a new paragraph to read:

(14) registration of a pharmacy located outside of the state.

* **Sec. 3.** AS 08.80.480 is amended by adding new paragraphs to read:

(19) "pharmacy located outside of the state" means a pharmacy that prepares or mixes prescription drugs outside of the state, regardless of the location at which those drugs may be shipped, mailed, or delivered to the consumer;

(20) "prescription drug" means a drug ~~other than a nonprescription drug~~.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
PLEASE REPLY TO:

P.O. BOX CR
JUNEAU, ALASKA 99811-0203
PHONE: (907)465-4460

701 EAST TUDOR ROAD, SUITE 240
ANCHORAGE, ALASKA 99503-7445
PHONE: (907) 563-5885

Fax# 465-3086

Public Employees Retirement System
Teachers Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Tuitional Retirement System
Retirees Voluntary Dental Vision Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

STEVE COWPER, GOVERNOR

March 19, 1990

The Honorable Curt Menard
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Menard:

Your staff requested an analysis from this division of the impact HB 508 would have on the health insurance plan for State of Alaska employees.

The health insurance plan that was negotiated last summer by the Alaska State Employees Association (ASEA) includes a provision for prescription drugs to be obtained through the mail. I have reviewed HB 508 and do not see any provisions that would be at cross purposes with the current negotiated agreement with ASEA or increase the cost of health insurance premiums.

The mail order prescription drug plan is provided by National Pharmacies, Inc. through a subcontract with Aetna, our health insurance carrier. I have also discussed the bill's requirements with Aetna and have been informed that National Pharmacies would currently be able to satisfy these requirements.

Sincerely,

Michael B. Coughlin
Deputy Director

MBC/ksl
cc: Sally Smith
Director
Division of Retirement and Benefits

Lynn Withrow
Aetna Life Insurance
Seattle, WA 98111

Note: Please Include Your Social Security Number In All Correspondence & Requests Concerning Your Benefits

cc: (continued)

Frank S. Baxter, CPA
Commissioner
Department of Administration

Gary Bader
Deputy Commissioner
Services to State Agencies
Department of Administration

Sioux Plummer
Special Assistant
Department of Administration

RB90-017

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU, ALASKA 998

MEMORANDUM January 26, 1990

SUBJECT: Out-of-state pharmacies and licensing requirements (Work Order No. 6-2018)

TO: Representative Curt Menard
Attn: Iola Young

FROM: John B. Gaguine JBG
Legislative Counsel

You have asked for a bill that would require out-of-state pharmacies doing business within the state (primarily out-of-state pharmacies soliciting and filling mail orders) to meet the requirements of licensing for in-state pharmacies. I am writing this memo to explain that there are essentially no requirements for in-state pharmacies, and that control of out-of-state mail order pharmacies can probably be better achieved through a different bill.

Under AS 08.80, the Board of Pharmacy regulates and licenses both pharmacies and pharmacists. Unlike the stringent requirements for issuance of a pharmacist license, however, there are virtually no requirements for a pharmacy license. AS 08.80.157 provides:

> (a) If an applicant furnishes proof satisfactory to the board that the applicant is equipped with land, facilities, and equipment, in fee or leased, necessary to carry on the business described in the application and the applicant complies with this chapter, applicable regulations adopted by the board, and pays fees provided for under AS 08.80.160, the board may issue
>
> > (1) a wholesale drug dealer license to an applicant who manufactures or distributes noncontrolled legend drugs to licensed retail pharmacists, dentists, physicians, surgeons, or veterinarians, who may legally purchase noncontrolled legend drugs at a wholesale level, or to government

agencies which may legally purchase noncontrolled legend drugs at a wholesale level;

(2) a wholesale drug dealer license to a qualified applicant who is in compliance with the Federal Controlled Substance Act of 1969 as amended;

(3) a license to a retail pharmacy.

(b) A license under this section may not be issued to a person who has been convicted of a wilful violation of a federal law or a law of any state relating to a drug or controlled substance, or who is addicted to a drug or controlled substance. A license may not be issued to a corporation with a managing officer who has been convicted of a wilful violation of a federal law or a law of any state relating to a drug or controlled substance, or who is addicted to a drug or controlled substance.

The specific requirements listed in subsection (a) - land, facilities, and equipment - obviously would be met by any out-of-state pharmacy capable of filling orders in Alaska. The "no conviction" provision of (b) is likely equally meaningless, as such a provision is likely found in virtually all state licensing acts. (I examined the pharmacy licensing statutes of several states, and they all had such a provision.) The other provisions in AS 08.80 concerning pharmacies, rather than pharmacists, are so vague as to be useless in regulating out-of-state pharmacies; see, e.g., AS 08.80.230 (pharmacy must have proper sanitary appliances and maintain orderly and sanitary premises). Most important, the Board of Pharmacy, which could issue regulations giving some meaning to these vague provisions, has to date not done so, likely because there have been major problems with duty pharmacies.

I would suggest instead an approach along the line of California's, which requires the out-of-state pharmacy to submit proof of compliance with the licensing laws of the pharmacy's state of residence, and also allows the California board to request information. I am enclosing

copies of the relevant California statutes. If this approach appeals to you, I can draft a bill based on those statutes (but likely far simpler). Or I can draft a bill along the lines of your request, that an out-of-state pharmacy must meet Alaska qualifications, in the hope that the Board of Pharmacy will someday issue the necessary regulations.

JBG:gc
G13/071

Enclosure

§ 4050. Unlawful practice of pharmacy

Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, sell or dispense any dangerous drug or devices, or to dispense or compound any prescription of a medical practitioner unless he or she is a registered pharmacist under the provisions of this chapter.

Amended Stats 1987 ch 1115 § 7.

Amendments:

1987 Amendment: Added (1) "or devices" after "dangerous drug"; and (2) "or she" after "unless he".

Exemption of medical device retailer from unlawful practice of pharmacy: § 4050.8.

Witkin Criminal Law (2d ed) Ch I Introduction to Crimes § 45.

Cal Jur 3d (Rev) Druggists § 16.

§ 4050.1. Registration of nonresident pharmacy; Information required; Fee

(a) Any pharmacy located outside this state which ships, mails, or delivers, in any manner, controlled substances or dangerous drugs or devices into this state shall be considered a nonresident pharmacy, shall be registered with the board, and shall disclose to the board all of the following:

(1) The location, names and titles of all principal corporate officers and all pharmacists who are dispensing controlled substances or dangerous drugs or devices to residents of this state. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, or pharmacist.

(2) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

(3) That it maintains its records of controlled substances or dangerous drugs or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(b) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(c) The registration fee shall be the fee specified in subdivision (a) of Section 4416.

(d) The registration requirements of this section and Sections 4350.6 and 4383, shall apply only to a nonresident pharmacy which only ships, mails, or delivers controlled substances and dangerous drugs and devices into this state pursuant to a prescription.

Added Stats 1988 ch 1448 sec 2.2.

Editor's Note—A similar provision was added by Stats 1988 ch 1424 § 2. The later enactment prevails. See Gov C § 9605.

This section shall be operative until January 1, 1992, and as of that date, is repealed unless a later enacted statute deletes or extends that date.

Added Stats 1988 ch 1424 sec 4, operative until January 1, 1992.

§ 4350.6. (Second of two; Operative January 1, 1992) Nonresident pharmac

The board may deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with any requirement of Section 4050.1 or 4383 or for any failure to comply with Section 11164 of the Health and Safety Code. This section shall become operative on January 1, 1992.

Added Stats 1988 ch 1424 sec 5, operative January 1, 1992.

Note—For Legislative findings and declarations, see 1988 Note following B & P C § 4050.1.

§ 4351. Misrepresentations

Cal Jur 3d (Rev) Druggists § 11.

§ 4353. Misuse of controlled substance, dangerous drug, or alcoholic bev ages

Cal Jur 3d (Rev) Druggists § 11.

§ 4354. Conviction of crime

Cal Jur 3d (Rev) Druggists § 11.

§ 4355. Disciplinary action by another state

The revocation, suspension, or other discipline by another state of a lice registration, permit, or certificate to practice pharmacy, operate a pharm or do any other act for which a license, registration, permit, or certifica required by this chapter, shall constitute grounds for disciplinary ac against a licensee or grounds for the denial of licensure of an applicar this state.

Added Stats 1986 ch 627 § 2.

Former Section: Former § 4355, relating to suspension of license of person adjudged insane or me ill, was added by Stats 1957 ch 1780 § 2 and repealed by Stats 1967 ch 1667 § 10, operative July 1. See W & I C §§ 4000 et seq.

§ 4358. Conviction of statute regulating controlled substances or dange drugs

Cal Jur 3d (Rev) Druggists § 11.

§ 4359. Scope of discipline

Cal Jur 3d (Rev) Druggists § 10.

§ 4360. Reinstatement petitions and hearings

Cal Jur 3d (Rev) Druggists § 12.

§ 4364. Notice of denial of certificate, etc.; Applicant's petition and pr ings thereon

Cal Jur 3d (Rev) Druggists § 10.

§ 4383. (First of two) Additional fine; AIDS education program

In addition to any fine assessed under Section 4382, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates Section 4143 or 4149, with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this section.

Added Stats 1988 ch 1243 sec 2.

Note—For legislative findings and declarations, see 1988 Note following Pen C § 1001.10.

§ 4383. (Second of two) Nonresident pharmacy; Advertisements

It is unlawful for any nonresident pharmacy which is not registered pursuant to Section 4050.1 to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy which has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

Added Stats 1988 ch 1424 sec 6, operative January 1, 1992.

Note—For Legislative findings and declarations, see 1988 Note following B & P C § 4050.1.

§ 4384. Misrepresentations

Cal Jur 3d (Rev) Druggists § 1.

§ 4385. Permitting acts of pharmacy other than by registered pharmacist

Cal Jur 3d (Rev) Druggists § 16.

§ 4386. Failure to place registered pharmacist in charge of pharmacy; Notice as to termination of employment

Cal Jur 3d (Rev) Druggists § 5.

§ 4386.1. Failure to place registered pharmacist or exemptee in charge of medical device retailer; Permitting compounding or dispensing of prescriptions; Misdemeanor

Any person who has obtained a certificate, license, permit, or registration to conduct a medical device retailer and who fails to place in charge of that medical device retailer a registered pharmacist or exemptee, or any person who, by himself or herself, or by any other person, permits the compounding or dispensing of prescriptions, except by a registered pharmacist or exemptee, or as otherwise provided in this chapter, is guilty of a misdemeanor.

Added Stats 1987 ch 1115 § 25.

"Medical device retailer": § 4034.5.

§ 4387. Management of pharmacy

Cal Jur 3d (Rev) Druggists § 5.

§ 4387.1. Taking charge of medical device retailer, dispensing prescriptions or furnishing dangerous device

Any person who is neither a registered pharmacist nor an exemptee and who takes charge of a medical device retailer or who dispenses a prescrip-

Cal Jur 3d (Rev) Criminal Law § 1524.
36 Cal Jur 3d Healing Arts and Institutions § 60.

11162.5. Counterfeiting or possession of counterfeited prescription blanks

(a) Every person who counterfeits a prescription blank purporting to be an official prescription blank prepared and issued pursuant to Section 11161, or knowingly possesses more than three such counterfeited prescription blanks, shall be punished by imprisonment in the state prison or by imprisonment in the county jail for not more than one year.

(b) Every person who knowingly possesses three or fewer counterfeited prescription blanks purporting to be official prescription blanks prepared and issued pursuant to Section 11161, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

Added Stats 1984 ch 1434 § 1, effective Sept. 26, 1984.

§ 11163. Issuance of only one prescription blank group

Not more than one such prescription group shall in any case be issued or furnished by the Department of Justice to the same prescriber at one time.

Amended Stats 1975 ch 678 § 42.

Amendments:

1975 Amendment: Substituted "Department of Justice" for "state bureau".

Cal Jur 3d (Rev) Criminal Law § 1524.

38 Cal Jur 3d Incompetent, Addicted, and Disordered Persons § 137.

§ 11164. Form and contents of prescription; Oral prescription

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II shall be wholly written in ink or indelible pencil in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Each prescription shall be prepared in triplicate, signed, and dated by the prescriber, and shall contain the name and address of the person for whom the controlled substance is prescribed, the name, quantity, and strength of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration number of the prescriber. The original and duplicate of the prescription shall be delivered to the pharmacist filling the prescription. The duplicate shall be retained by the pharmacist and the original, properly endorsed by the pharmacist with the name and address of the pharmacy, the pharmacy's state license number, the date the prescription was filled and the signature of the pharmacist, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled. Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription the address of the patient.

(b) Each prescription for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and sha contain the name of the person for whom the controlled substance prescribed, the name and quantity of the controlled substance prescribed and directions for use. With respect to prescriptions for controlled sub stances classified in Schedule III, the signature, date, and informatio required by this paragraph shall be wholly written in ink or indelible penc in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephon number, category of professional licensure, and federal controlled substanc registration number of the prescriber. The information required by thi paragraph shall be either preprinted upon the prescription blank, typewrit ten, rubber stamped, or printed by hand. Notwithstanding any provision i this section, the prescriber's address, telephone number, category of profes sional licensure, or federal controlled substances registration number nee not appear on the prescription if that information is readily retrievable i the pharmacy.

(3) The prescription shall also contain the address of the person for whor the controlled substance is prescribed. If the prescriber does not specify suc address on the prescription, the pharmacist filling the prescription or a employee acting under the direction of the pharmacist shall write or typ the address on the prescription or maintain such information in a readil retrievable form in the pharmacy.

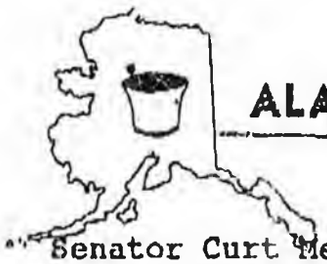
(c) Any controlled substance classified in Schedule III, IV, or V may b dispensed upon an oral prescription, which shall be reduced to writing b the pharmacist filling the prescription or by such other person as expressly authorized by provisions of the Business and P ofessions Cod The date of issue of the prescription and all the information required for written prescription by subdivision (b) shall be included in the writt record of the prescription. The pharmacist need not reduce to writing th address, telephone number, license classification, or federal registry numb of the prescriber or the address of the patient if that information is readi retrievable in the pharmacy. Pursuant to authorization of the prescriber, a employee of the prescriber on behalf of the prescriber may orally transmit prescription for a controlled substance classified in Schedule III, IV, or V, in these cases the written record of the prescription required by th subdivision specifies the name of the employee of the prescriber transmittin the prescription.

(d) The use of commonly used abbreviations shall not invalidate an oth wise valid prescription.

(e) Notwithstanding any provision of subdivisions (b) and (c), prescriptio for a controlled substance classified in Schedule V may be for more than o person in the same family with the same medical need.

(f) In addition to the prescriber's record required by Section 11190, a practitioner dispensing a controlled substance classified in Schedule II accordance with subdivision (b) of Section 11158 shall prepare a writt record thereof on the official forms issued by the Department of Justi pursuant to Section 11161, and shall transmit the original to the Depa ment of Justice in accordance with such rules as that department may ado for completion and transmittal of the forms.

Added Stats 1976 ch 896 § 9; Amended Stats 1978 ch 1103 § 5; Stats 1979 ch 634 § 4; Stats 1980 ch § 4, ch 1223 § 3. Amended Stats 1988 ch 398 sec 2.



ALASKA PHARMACEUTICAL ASSOCIATION

Box 10-1185 Anchorage, Alaska 99510

Senator Curt Menard
Alaska State Legislature
Juneau, Alaska FAX 465-3756

March 25, 1991

Dear Senator Menard:

The members of the Alaska Pharmaceutical Association wish to convey to you their support of your bill SB 125. Mail-order pharmacy involves many significant realities, especially in the state of Alaska.

One very important reality is that the State has the duty to protect the health and welfare of its citizens. SB 125 addresses that duty with respect to those pharmacy businesses which are not resident in the state of Alaska and which do a preponderance of their prescription volume through mail-order dispensing.

The issue of mail-order pharmacy is of great concern to the members of the Alaska Pharmaceutical Association. The Associaiton and its Board of Directors appreciate your efforts to address this concern. It is gratifying to have a Senator who not only listens to his constituents, but who also acts.

The Association will particpate in your hearings tomorrow (March 26th) through Katy Fishel, Past President of the Association. We will continue to watch the progress of SB 125 with interest and support.

Please contact me if I can be of help as SB 125 continues toward passage, hopefully this term. I can be reached at 261-3078 or via FAX 261-3048. Or, you may write to me at the Association's address given above.

Sincerely,

Lynn E. Rodda
President, Alaska Pharmaceutical Association

cc: Association Board of Directors

HB508

EMENS, HURD, KEGLER & RITTER CO., L.P.A.

ATTORNEYS AND COUNSELORS AT LAW

CAPITOL SQUARE

SUITE 1800

65 EAST STATE STREET

COLUMBUS, OHIO 43215-4294

TELEPHONE: (614) 462-5400

TELECOPIER: 464-2634

CABLE: LAW OHIO

TELEX: 246671

JOHN F. ALLEVATO
JACK A. BJERKE
JOHN P. BRODY
WILLIAM J. BROWN
STEPHEN E. CHAPPELEAR
RICHARD EMENS
LAWRENCE F. FEHELE
JOHN L. GRAY
ALLEN L. HANDLAN
EDWARD C. HERTENSTEIN
THOMAS M. HILL
JANE W. HOLLIKER
DWIGHT J. HURD
CHARLES J. KEGLER
LARRY J. McCLATCHEY
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SAMUEL C. RANDAZZO
PAUL S. RITTER, JR.
ROGER P. SUGARMAN
KEVIN L. SYKES
JOHN R. THOMAS
JOHN B. TINGLEY
MELVIN D. WEINSTEIN
BEATRICE E. WOLPER
JEANNE R. WOODRUFF
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NANCY J. KOERNER
DAVID A. KULWICKI
ANN M. O'CONNELL
MICHAEL S. O'KANE
SHELLEY A. McBRIDE
HERBERT M. RICHARDSON III
RICHARD P. ROSENBERRY
STEVEN R. RUSSI
O. JUDSON SCHEAF III
KARL W. SCHEDLER
RICHARD W. SCHUERMANN, JR.
ROBERT G. SCHULER
MICHAEL E. SCOLIERE
AMY M. SHEPHERD
S. MARTIJN STEGER
TIMOTHY T. TULLIS
NICK J. VIZY

OF COUNSEL
JOHN C. BEAL
ROBERT S. MAROTTA
RONALD E. MASON
G. NOEL MELVIN
JOSEPH M. MILLER

March 3, 1990

The Honorable David Donley, Chairperson
House Labor & Commerce Committee
Alaska State Legislature
State Capitol Building, Room 17
Juneau, Alaska 99801

Re: State of Alaska Pharmacy Legislation - House Bill No. 508

Dear Chairman Ellis:

I am writing this letter to you in my capacity as Regulatory Counsel for Medco Containment Services, Inc. ("Medco"), to include each of its regionally located mail service pharmacies, all of which provide safe, cost-effective prescription drug therapy to the members and beneficiaries of major corporations, unions and retiree groups, to include many that are Alaska residents. Medco respectfully submits that House Bill No. 508, to the extent it would condition licensure upon compliance, by a non-resident pharmacy, with reasonable standards of disclosure to the Alaska Board of Pharmacy and those statutory provisions presently incorporated in the bill, is a responsible exercise of a state's power to regulate given the various constitutional protections afforded businesses which are engaged in interstate commerce. For these reasons, Medco <u>supports</u> House Bill No. 508.

The regulation of out-of-state drug outlets, and particularly mail service pharmacies, has been the subject of frequent, and often emotional, debate over the last several years. There can be little doubt that the debate has been fueled by the rapid growth of mail service pharmacy. Medco, along with those pharmacies operated by the Veterans Administration and the AARP Pharmacy Service, have been at the forefront of this growth. The lines of debate are well-drawn: some sectors of the retail pharmacy community seek licensure restrictive in nature for the singular purpose of precluding the operation of a mail service pharmacy on an interstate basis and thereby eliminating a competitive force in the marketplace. Licensure of this nature is often argued in the guise of health and safety concerns,

concerns which are not supported by an informed knowledge of mail service pharmacy and particularly when mail service pharmacy is evaluated in the context of total pharmacy practice. On the other hand, those engaged in the practice of mail service pharmacy, when denied the opportunity for meaningful, objective dialogue, have correctly relied upon the various constitutional arguments which preclude such restrictive licensure. These constitutional arguments are several, but revolve primarily around the Commerce Clause of the Constitution of the United States of America. The constitutional arguments become all the more meaningful in light of the extensive state and federal regulation applicable to the practice of pharmacy, to include mail service pharmacy. Moreover, in addition to licensure as a community or retail pharmacy in the state where the pharmacy is located and licensure at the federal level, mail service pharmacies have established an historical record, in terms of the public health and safety, which simply does not support the need for restrictive licensure.

On the contrary, those reports which have been published by responsible, objective reviewers over the years have found no documented, credible evidence which compromises the health and safety record of mail service pharmacy or otherwise justifies restrictive licensure. In addition to favorable reports from the Federal Trade Commission, the American Medical Association, and various state legislative studies, a December, 1989 report issued by the State of Maine is particularly relevant to House Bill No. 508. Specifically, the Joint Standing Committee on Business Legislation of the Legislature of the State of Maine conducted hearings to review, among other issues, the safety impact of mail service pharmacy. In adopting Cost Containment for Prescription Drugs (December, 1989), the Committee concluded, in pertinent part as follows:

> The Committee found no evidence that there was any difference in safety between having a prescription filled by mail and through an in-state pharmacy.

To the extent a state would have the power to regulate in this area, House Bill No. 508 closely parallels the form of a California statute now adopted in a number of other states. Commonly known as the California Disclosure Legislation, this statute, supported during the legislative process by Medco and the AARP Pharmacy Service, regulates mail service pharmacy in a manner consistent with constitutional and professional practice standards. Therefore, Medco respectfully urges you to support House Bill No. 508.

If you have any questions relative to this matter, or desire further information, please do not hesitate to contact me.

Very truly yours,

Robert D. Marotta

RDM/tmj
Attachment - California Disclosure Legislation

cc: House Labor & Commerce Committee, Members

Gordon S. Harrison, Director
Legislative Research Agency
Alaska State Legislature

Medco Containment Services, Inc.

Senate Bill No. 2213

CHAPTER 1424

An act to amend Section 4084.6 of, to add Sections 4050.1 and 4383 to, and to add and repeal Section 4350.6 of, the Business and Professions Code, relating to pharmacy, and making an appropriation therefor.

[Approved by Governor September 26, 1988. Filed with Secretary of State September 27, 1988.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2213, Craven. Pharmacy.

Under existing law, it is unlawful for any person to, among other things, sell or dispense any prescription of a medical practitioner unless the person is a registered pharmacist under specified provisions of the Business and Professions Code. The law requires an out-of-state pharmacy which conducts the business of selling or distributing drugs in this state to be licensed by the Board of Pharmacy.

This bill would require any pharmacy, as specified, located outside this state which ships, mails, or delivers any controlled substances or dangerous drugs or devices into this state to register with the board, disclose specified information to the board, and meet other conditions.

The bill would authorize the board to deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with specified provisions of California law and, until January 1, 1992, for conduct which causes serious bodily or psychological injury to a resident of this state if the regulatory agency in the state where the pharmacy is located fails to initiate an investigation into the matter within 45 days of being notified by the board.

The bill also would prohibit specified advertisements with regard to unregistered, nonresident pharmacies.

Existing provisions of the Business and Professions Code continuously appropriate the moneys in the Pharmacy Board Contingent Fund. Because this bill would increase the amount of moneys in the fund, it would constitute an appropriation.

A violation of those provisions of the Business and Professions Code constitutes a misdemeanor.

This bill would impose a state-mandated local program by creating or revising a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this

act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that the practice of pharmacy is a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and drug related therapy.

(b) The Legislature recognizes that with the proliferation of alternate methods of health delivery, there has arisen among third-party payers and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail order pharmacies located outside the State of California.

(c) As a result, the Legislature finds and declares that to continue to protect the California consumer-patient, all out-of-state pharmacies that provide service to California residents shall be registered with the board, disclose specific information about their services, and provide pharmacy services at a high level of protection and competence.

SEC. 2. Section 4050.1 is added to the Business and Professions Code, to read:

4050.1. (a) Any pharmacy located outside this state which ships, mails, or delivers, in any manner, controlled substances or dangerous drugs or devices into this state shall be considered a nonresident pharmacy, shall be registered with the board, and shall disclose to the board all of the following:

(1) The location, names and titles of all principal corporate officers and all pharmacists who are dispensing controlled substances or dangerous drugs or devices to residents of this state. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, or pharmacist.

(2) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

(3) That it maintains its records of controlled substances or dangerous drugs or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs

dispensed.

(b) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(c) The registration fee shall be the fee specified in subdivision (a) of Section 4416.

(d) The registration requirements of this section and Sections 4350.6 and 4383, shall apply only to a nonresident pharmacy which only ships, mails, or delivers controlled substances and dangerous drugs and devices into this state pursuant to a prescription.

SEC. 3. Section 4084.6 of the Business and Professions Code is amended to read:

4084.6. No out-of-state manufacturer, wholesaler, or pharmacy doing business in this state who has not obtained a certificate, license, permit, registration, or exemption from the board and who sells or distributes drugs in this state through any person or media other than a wholesaler who has obtained a certificate, license, permit, registration, or exemption pursuant to the provisions of this chapter or through a selling or distribution outlet which is licensed as a wholesaler pursuant to the provisions of this chapter, shall conduct the business of selling or distributing drugs in this state without obtaining an out-of-state drug distributor's license from the board or registering as a nonresident pharmacy.

Applications for an out-of-state drug distributor's license or a nonresident pharmacy registration, under this section shall be made on a form furnished by the board. The board may require such information as the board deems is reasonably necessary to carry out the purposes of the section.

The board may deny, revoke, or suspend such out-of-state distributor's license for any violation of this chapter or for any violation of Division 21 (commencing with Section 26001) of the Health and Safety Code. The license or nonresident pharmacy registration shall be renewed annually on or before the first day of January of each year.

The Legislature, by enacting this section, does not intend a license or nonresident pharmacy registration issued to any out-of-state manufacturer, wholesaler, or pharmacy pursuant to this section to change or affect the tax liability imposed by Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code on any out-of-state manufacturer, wholesaler, or pharmacy.

The Legislature, by enacting this section, does not intend a license or nonresident pharmacy registration, issued to any out-of-state manufacturer, wholesaler, or pharmacy pursuant to this section to

serve as any evidence that such out-of-state manufacturer, wholesaler, or pharmacy is doing business within this state.

SEC. 4. Section 4350.6 is added to the Business and Professions Code, to read:

4350.6. (a) The board may deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with any requirement of Section 4050.1 or 4383 or for any failure to comply with Section 11164 of the Health and Safety Code.

(b) The board may deny, revoke, or suspend a nonresident pharmacy registration for conduct which causes serious bodily or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or licensing agency fails to initiate an investigation within 45 days of the referral. The board shall obtain and maintain a record of referrals pursuant to this subdivision and any action taken thereon and shall report its findings to the Legislature on or before March 31, 1991.

This section shall be operative until January 1, 1992, and as of that date, is repealed unless a later enacted statute deletes or extends that date.

SEC. 5. Section 4350.6 is added to the Business and Professions Code, to read:

4350.6. The board may deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with any requirement of Section 4050.1 or 4383 or for any failure to comply with Section 11164 of the Health and Safety Code.

This section shall become operative on January 1, 1992.

SEC. 6. Section 4383 is added to the Business and Professions Code, to read:

4383. It is unlawful for any nonresident pharmacy which is not registered pursuant to Section 4050.1 to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy which has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 6, 1990

SUBJECT: Pharmacy licensing requirements in other states (Work Order No. 6-2115)

TO: Representative Curt Menard
Attn: Iola

FROM: John B. Gaguine JBG
Legislative Counsel

Per your request, I have been looking at the pharmacy licensing requirements in some of the other Western states. In all of the statutes I have examined, a pharmacy can be licensed if it complies with the pharmacy laws, which is essentially the same requirement as is found in AS 18.-80.157. (Sometimes there are minor additional requirements, such as the North Dakota requirement that a pharmacy must possess the standard pharmaceutical reference book to get licensed.) However, the majority of the other statutes I looked at regulate pharmaceutical practices considerably more closely than do Alaska's laws and regulations, and all of them regulate at least as closely as Alaska. For your interest I am enclosing some of the statutes of Nevada (since that is the location of the mail-order pharmacy under the revised state employee health care program) and Washington (since Seattle pharmacies can logically be expected to enter the mail-order prescription drug business).

Incidentally, I found that Wyoming has adopted an out-of-state pharmacy law that is also apparently based on the California statute on which I modeled W.O. 6-2018A. North Dakota, on the other hand, takes a different approach, requiring out-of-state pharmacies doing mail-order business in that state to get a license from the North Dakota board. I am enclosing a copy of the North Dakota statute. I think that the approach taken by the California law is better, since I do not think that the Alaska board (or the North Dakota board, for that matter) would be able to effectively

regulate an out-of-state pharmacy. Hence requiring it to get an Alaska license would not, in my opinion, accomplish much.

If I may be of further assistance, please advise.

JBG:lmb
L9/095

Enclosures

NEVADA

dispense controlled substances or dangerous drugs, or both 300
For biennial renewal of authorization of practitioner to dispense controlled substances or dangerous drugs, or both ..... 300";

in subsection 2, substituted "he must pay the actual costs" for "he shall pay the actual costs"; in subsection 3, substituted "and are not refundable" for "and must not be refunded."

639.180. Issuance and renewal of certificates of registration; proration of fee.

1. A certificate as a registered pharmacist must be issued to each person who the board determines is qualified under the provisions of NRS 639.120, 639.133 and 639.134. The certificate entitles the person to whom it is issued to practice pharmacy in this state.

2. Each person to whom this certificate has been issued may, if his certificate has not been revoked, renew his certificate biennially upon making application and paying the renewal fee and complying with the requirement of continuing professional education if applicable.

3. The application for the renewal of this certificate, together with the fee for renewal must be delivered to the secretary of the board on or before the first Monday in September next preceding the expiration date of any existing valid certificate or receipt.

4. If a certificate is renewed, it must be dated as of November 1, and delivered to the applicant on or before that date.

5. The board may refuse to renew a certificate if the applicant has committed any act proscribed by NRS 639.210.

6. The board may prorate the required fee for periods of partial biennial registration. (1913, p. 572; 1947, p. 667; 1951, p. 290; 1953, p. 588; 1967, p. 1646; 1973, pp. 777, 977; 1975, pp. 204, 1311; 1979, p. 1688; 1985, p. 880; 1989, ch. 415, § 3, p. 896.)

Effect of amendment. — The 1989 amendment substituted "before the first Monday" for "before the 1st Monday" in subsection 3 and added subsection 6.

639.210. Grounds for suspension or revocation of certificate, license, registration or permit or denial of application.

The board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;

2. Is guilty of habitual intemperance;

3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a physician's prescription, while on duty in any establishment licensed by the board;

4. Is guilty of unprofessional conduct or conduct contrary to the public interest;

5. Is addicted to the use of any controlled substance;

6. Has been convicted of a violation of any law related to controlled substances of the Federal Government or of this or any other state;

7. Has been convicted of a felony or other crime involving moral turpitude, dishonesty or corruption;

8. Has willfully made to the board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;

9. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;

10. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

11. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to the practice of pharmacy committed by a registered pharmacist in his employ;

12. Has failed to renew his certificate, license or permit by failing to pay the renewal fee therefor;

13. Has had his certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this state;

14. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his supervision; or

15. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him. (1913, p. 573; 1951, p. 290; 1953, p. 588; 1967, p. 1647; 1971, pp. 685, 2040; 1973, p. 778; 1975, p. 1311; 1979, p. 1689; 1981, pp. 272, 597; 1983, p. 1507; 1985, p. 880; 1987, ch. 313, § 1, p. 670; 1987, ch. 658, § 46, p. 1567; 1987, ch. 658, § 66, p. 1577; 1989, ch. 48, § 38, p. 109.)

Editor's note. — This section was amended three times by two 1987 acts which do not appear to conflict and have been compiled together.

The 1989 amendment of Acts 1987, ch. 658, § 66, by Acts 1989, ch. 48, § 38, effective March 29, 1989, affirmed a technical correction made by the Legislative Counsel.

Effective date. — Acts 1987, ch. 313, § 1, p. 670 became effective July 1, 1987. Acts 1987, ch. 658, § 46, p. 1567 and ch. 658, § 66, p. 1577 became effective June 18, 1987, pursuant to ch. 658, § 69, p. 1580.

Effect of amendment. — The 1987 amendment by ch. 313, § 1, as amended by Acts 1987, ch. 658, § 66, in subdivision 11, added "knowingly"; in subdivision 14, substituted "provision of law" for "provisions of law" and added "knowingly"; and in subdivision 15, substituted "which" for "as."

The 1987 amendment by ch. 658, § 46, in the introductory paragraph of this section, substituted "pursuant to" for "under the provisions of"; in subdivisions 3 and 5, deleted "as defined in chapter 453 of NRS" following "substance"; in subdivision 6, deleted "as defined in chapter 453 of NRS" following "substances"; and in subdivision 14, deleted "requirements" following "inventory."

U.S. Code. — The Federal Food, Drug and

Cosmetic Act, referred to in subdivision 10, is codified as 21 U.S.C. §§ 301 to 392.

PROFESSIONAL CONDUCT

639.213. Legislative declaration.

The legislature hereby declares the practice of pharmacy to be a learn profession, affecting public safety and welfare and charged with the publ interest, and is therefore subject to protection and regulation by the stat (1963, p. 474; 1989, ch. 145, § 1, p. 308.)

Effect of amendment. — The 1989 amendment inserted "learned" preceding "profession" and added "affecting public safety and welfare and charged with the public interest, and therefore subject to protection and regulati by the state" to the end of the section.

PHARMACIES

639.220. Registered pharmacist to be in charge of pharmacy; excep tions; managing pharmacists.

1. Except as otherwise provided in NRS 639.2324, 639.2326 and 639.232 each pharmacy must be managed by a registered pharmacist, approved by th board, who is responsible for compliance by the pharmacy and its personn with all state and federal laws and regulations relating to the operation of th pharmacy and the practice of pharmacy.

2. Except as otherwise provided NRS 639.2321, if the managing pharmaci is the only registered pharmacist employed in the pharmacy, the board ma authorize his absence each day for a total period of not to exceed 2 hours f the purpose of taking meals if:

(a) A registered pharmacist is on call during his absence;

(b) A sign, as prescribed by regulations of the board, is posted for publi view in the pharmacy indicating the absence of the pharmacist and th hours of his absence; and

(c) All drugs, poisons, chemical and restricted devices are kept safe in manner prescribed by regulations of the board.

The authorization required from the board must be in writing and be retaine in the pharmacy and available for inspection.

3. A person shall not act as a managing pharmacist for more than on licensed pharmacy. Each managing pharmacist must be on duty in the phar macy and active in the management of the pharmacy full time, but he nee not be present during the time the pharmacy is open for business if he desig nates another pharmacist employed in the pharmacy to assume his duties i his absence. The managing pharmacist is responsible for the activities of hi designee.

4. The board must be notified before there is a change in the managin pharmacist. (1913, p. 569; 1947, p. 667; 1949, p. 554; 1951, p. 290; 1953, p. 588 1955, p. 307; 1963, p. 475; 1967, p. 1649; 1971, p. 686; 1975, p. 1313; 1977, p 1280; 1983, p. 1509; 1985, p. 883; 1989, ch. 746, § 10, p. 1751.)

Effect of amendment. — The 1989 amendment, in subsection 2, added "Except as otherwise provided in section 5 of this act" in the introductory language, and inserted "and" in the second sentence of subdivision (c); and substituted "must be on duty" for "shall be on duty" in the second sentence of subsection 3.

639.2321. Nuclear pharmacy: Direct supervision of preparation and distribution of radiopharmaceuticals required; qualifications and duties of managing pharmacist.

1. Any person who prepares or distributes radiopharmaceuticals must be under the direct supervision of a nuclear pharmacist.

2. The managing pharmacist of a nuclear pharmacy must be:

(a) A nuclear pharmacist; and

(b) On the premises during the hours the pharmacy is open for business. (1989, ch. 746, § 5, p. 1750.)

639.2322. Nuclear pharmacy: Oral orders; limitation on refill of prescription for radiopharmaceutical.

1. Except as otherwise provided in subsection 2, a managing pharmacist of a nuclear pharmacy may delegate to any person, under his direct supervision, the authority to accept oral orders from a practitioner or his designated agent.

2. An oral order may be used for a radiopharmaceutical which is not prescribed for a specific patient. An oral order which is designated for a specific patient must be accepted only by a nuclear pharmacist or registered intern acting under the direct supervision of a nuclear pharmacist.

3. A prescription for a radiopharmaceutical must not be refilled.

4. As used in this section, "designated agent" means a person who is authorized to communicate a practitioner's instructions to a nuclear pharmacy. (1989, ch. 746, § 6, p. 1750.)

639.2323. Nuclear pharmacy: Publications required on premises.

1. Each nuclear pharmacy must have on the premises the following publications:

(a) The United States Pharmacopeia;

(b) The National Formulary;

(c) Chapter 639 of NRS;

(d) Chapter 639 of NAC;

(e) Any federal or state regulations governing the use of applicable radioactive materials; and

(f) A text relating to the practice of nuclear pharmacy and radiation safety.

2. All publications must be current editions or revisions. (1989, ch. 746, § 7, p. 1751.)

Effect of amendment. — The 1987 amendment, in subsection 1 and the introductory paragraph of subsection 2, substituted "The services of a hospital" for "A hospital," substituted "used" for "employed"; in subsection 3, added "nonclerical," and added "as defined in regulations adopted by the board."

639.2326. Pharmacies in correctional institutions: Supervision by prescribing practitioner or licensed pharmacy; security; records.

1. Except as otherwise provided in NRS 639.2327, a pharmacy in a correctional institution which is used mainly for storage and from which controlled substances and dangerous drugs and devices are administered must be supervised by a prescribing practitioner or a licensed pharmacy.

2. The practitioner or a registered pharmacist need not be present at the times the pharmacy is open, but is responsible for the security of the pharmacy and shall maintain the records required by the board. In any case, the name of the prescribing practitioner must be recorded when any controlled substance, dangerous drug or device is administered or ordered for stock. (1983, p. 1504; 1987, ch. 688, § 12, p. 1652.)

Effective date. — The 1987 amendment became effective January 1, 1988, pursuant to Acts 1987, ch. 688, § 34, p. 1659.

Effect of amendment. — The 1987 amendment, in subsection 1, substituted "a pharmacy in a correctional institution" for "an institutional pharmacy"; and in the first sentence of subsection 2, deleted "institutional" following "times the."

Prescriptions

639.235. Persons authorized to prescribe and write prescriptions.

1. No person other than a practitioner holding a currently valid license to practice his profession in this state may prescribe or write a prescription, except that a prescription written by a physician not licensed to practice in this state but authorized by the laws of another state to prescribe shall be deemed to be a legal prescription.

2. If a prescription, written by a physician not licensed to practice in this state, calls for a controlled substance listed in Schedule II, the registered pharmacist who is to fill the prescription shall establish that the prescription is authentic and that a bona fide doctor-patient relationship did exist when the prescription was written. (1967, p. 1661; 1969, p. 910; 1971, p. 2042; 1975, p. 1314; 1979, p. 1693; 1987, ch. 658, § 47, p. 1568.)

Effective date. — The 1987 amendment became effective June 18, 1987.

Effect of amendment. — The 1987 amendment, in subsection 1, substituted "deemed" for "considered"; in subsection 2, substituted "controlled substance listed in Schedule II" for "Schedule II controlled substance, as defined in chapter 453 of NRS, it is the responsibility of," substituted "shall" for "to," and substituted "when" for "at the time."

639.23505. Dispensing controlled substances or dangerous drugs.

1. A practitioner shall not dispense for human consumption any controlled substance or dangerous drug if he charges a patient for that substance or drug, either separately or together with charges for other professional services:

(a) Unless he first applies for and obtains authorization from the board and pays the required fee; and

(b) Without a written prescription.

2. Each person to whom authorization is given pursuant to subsection 1 may, if his authorization has not been revoked, renew his authorization biennially upon making application to the board and paying the required renewal fee. (1987, ch. 353, § 6, p. 803; 1989, ch. 532, § 3, p. 1121.)

Effect of amendment. — The 1989 amendment divided the former subsection 1 into the present introductory paragraph of subsection 1 and subdivision 1(a) and added subdivision 1(b); in the present introductory paragraph of subsection 1, substituted "human consumption any controlled substance or dangerous durg if he charges a patient for that substance or drug, either separately or together with charges for other professional services" for "human consumption controlled substances or dangerous drugs, or both, for profit in the usual course of his professional practice unless he"; in the present subdivision 1(a) substituted "; and" for a period at the end of the subdivision.

639.2351. Prescription by registered nurse; certification by state board of pharmacy.

1. A registered nurse may prescribe, under protocol and only by written prescription, poisons, dangerous drugs and devices if he:

(a) Is authorized to do so by the state board of nursing in a certificate issued by that board; and

(b) Applies for and obtains a certificate of registration from the state board of pharmacy and pays the fee set by a regulation adopted by the board. The board may set a single fee for the collective certification of the nurses in the employ of a public or nonprofit agency and a different fee for the individual certification of other nurses.

2. The state board of pharmacy shall consider each application from a registered nurse separately, and may:

(a) Issue a certificate of registration; or

(b) Refuse to issue a certificate of registration, regardless of the provisions of the certificate issued by the state board of nursing.

3. As used in this section, "protocol" has the meaning ascribed to it in NRS 454.695. (1983, p. 1218; 1987, ch. 417, § 6, p. 949.)

Effect of amendment. — The 1987 amendment, in subdivision 2(a), substituted "or" for "limiting"; and deleted subdivisions 2(a)(1) to 2(a)(4) as they appear in the bound volume.

639.2352. Expired.

Editor's note. — This section expired by limitation on June 30, 1989, pursuant to Acts 1987, ch. 660, § 5, p. 1585 as amended by Acts 1989, ch. 425, § 1, p. 915.

639.236. Numbering and filing of prescriptions; inspection of files.

1. All prescriptions filled by a practitioner must be serially numbered and filed in the manner prescribed by regulation of the board. Prescriptions for controlled substances listed in Schedule II must be filed separately from other prescriptions or in a readily retrievable manner as the board may provide by regulation. All prescriptions must be retained on file for at least 2 years.

2. Each prescription on file must bear the date on which it was originally filled and be personally signed or initialed by the registered pharmacist or practitioner who filled it.

3. Files of prescriptions are open to inspection by members, inspectors and investigators of the board and by inspectors of the Food and Drug Administration and agents of the investigation division of the department of motor vehicles and public safety. (1967, p. 1662; 1971, p. 2042; 1973, p. 781; 1975, p. 1315; 1979, p. 343; 1981, p. 2014; 1983, p. 226; 1985, p. 1998; 1987, ch. 658, § 18, p. 1568; 1989, ch. 287, § 1, p. 611; 1989, ch. 532, § 4, p. 1121.)

Editor's note. — This section was amended by two 1989 acts which do not appear to conflict and have been compiled together.

Effective date. — The 1987 amendment became effective June 18, 1987.

Acts 1989, ch. 287, § 1 effective October 1, 1989. Acts 1989, ch. 532, § 4 became effective at 12:01 a.m. on October 1, 1989, pursuant to ch. 2, § 28.

Effect of amendment. — The 1987 amendment, in the first sentence of subsection 1, deleted "pursuant to chapter 453 of NRS" following "Schedule II."

The 1989 amendment by ch. 287, § 1, substituted "2 years" for "5 years" at the end of subsection 1.

The 1989 amendment by ch. 532, § 4, in subsection 1, substituted "by a practitioner" for "in any pharmacy" near the beginning of the first sentence; in subsection 2, inserted "or practitioner" following "registered pharmacist."

639.238. Prescriptions not public records; pharmacists not to divulge contents; exceptions.

1. Prescriptions filled and on file in a pharmacy are not a public record. A pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:

(a) The patient for whom the original prescription was issued;

(b) The practitioner who originally issued the prescription;

(c) A practitioner who is then treating the patient;

(d) A member, inspector or investigator of the board or an inspector of the Food and Drug Administration or agent of the investigation division of the department of motor vehicles and public safety;

(e) An agency of state government charged with the responsibility of providing medical care for the patient;

(f) An insurance carrier, on receipt of written authorization signed by the patient or his legal guardian, authorizing the release of such information; or

(g) Any person authorized by an order of a district court.

2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face, "Copy, Not Refillable—For Reference Purposes Only"; and such a copy must bear the name or initials of the registered pharmacist who prepared the copy.

3. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.

4. If, at the express request of a customer, a copy of a prescription for any controlled substance or dangerous drug is furnished to another pharmacist, the original prescription must be voided and notations made thereon showing the date and the name of the pharmacist to whom the copy was furnished. The pharmacist receiving the copy shall call the prescribing practitioner for a new prescription. (1967, p. 1662; 1971, p. 2043; 1973, p. 781; 1977, p. 1281; 1979, p. 1693; 1981, p. 2015; 1985, p. 1998; 1987, ch. 658, § 49, p. 1568.)

Effective date. — The 1987 amendment became effective June 18, 1987.

Effect of amendment. — The 1987 amendment, in subdivision 1(g), substituted "an order of a district court" for "a district court order", and in subsections 2 and 3, deleted "as defined in chapter 453 of NRS" following "controlled substance."

ADMINISTRATIVE PROCEEDINGS

639.241. Accusation: Form, contents and signature.

LEGAL PERIODICALS

Review of Selected Nevada Legislation, Health and Welfare, 1987 Pac. L.J. Rev. Nev. Legis. 117.

639.2445. Physical and mental examinations of holder of certificate believed to be incompetent; competency hearing; probation.

1. Whenever the board believes that a holder of a certificate is or has become incompetent to practice pharmacy by reason of any physical or mental injury, illness or disability or by reason of chronic or excessive use of alcohol or drugs, the board may order that the holder of the certificate submit to a physical or psychiatric examination, or both, at the expense of the board.

2. The board shall designate a physician or a psychiatrist or both, as the case may be, to conduct the examination or examinations of the holder of the certificate and furnish the board and the holder of the certificate with a report of the findings. If the holder of the certificate is dissatisfied with the findings, he may obtain an independent examination and report at his own expense, not later than 10 days following receipt of the initial report.

3. Upon receipt of the findings the b
mine whether the holder of the certifica
Except as provided in subsection 4, if th
to practice pharmacy, it shall order an
practice pharmacy, and the suspension
mines that a certificate may be reins

4. The board may place on probatio
competent to practice pharmacy by rea
hol or drugs if he voluntarily enters a
approved by the board and complies wi
board. (1975, p. 1306; 1987, ch. 417,

Effect of amendment. — The 1987 amendment substituted "the holder of the certificate" for "the certificate holder" wherever it appears throughout this section; in subsection 1, substituted "a holder of a certificate" for "any certificate holder"; in the second sentence of subsec-

LEGAL PE

Review of Selected Nevada Legislation, Health and Welfare, 1987 Pac. L.J. Rev. Nev. Legis. 117.

639.247. Hearing: Procedure.

1. Any hearing held for the purpos
cate, certification, license or permit n
The hearing must be presided over b
and three members constitute a quor
the concurrence of at least three m
must be reported or recorded by an
court reporter or another qualified

2. The member of the board or his
secretary may administer oaths or a
ments may be ordered, or may be
presiding, for cause shown and by ora
time and place at which the hearing
782; 1977, p. 1282; 1981, p. 101;

Effect of amendment. — The 1987 amend
ment, in the fourth sentence of subsection

2. All tablets and capsules, except for hypodermic and sublingual ta have the manufacturer's product identification code imprinted on them

3. The manufacturer is capable of recalling unsafe or defective drugs has filed a statement describing its capability with the board; and

4. The manufacturer has filed a liability statement relative to its drugs with the board. (1979, p. 1349; 1985, p. 885.)

639.2593. Board to furnish list of qualified manufacturers.

The board shall furnish each pharmacy in Nevada with a list of all manufacturers who are qualified pursuant to NRS 639.2591. The board shall publish addenda or revised lists at least quarterly. (1979, p. 1349.)

639.2595. Liability of pharmacist.

A pharmacist who selects a drug for substitution assumes no greater civil liability than he assumes by filling the prescription with the drug under its brand name. (1979, p. 1349.)

639.2597. Use of list of biologically equivalent drugs.

A pharmacist who proposes to make any substitution must have made use of a list of biologically equivalent drugs which is published by the United States Food and Drug Administration. (1979, p. 1349.)

639.2599. Display of notice regarding substitution.

1. Each pharmacy shall prominently display at or near the place where prescriptions are dispensed the following information in block letters not less than 1 inch in height:

STATE LAW ALLOWS A LESS EXPENSIVE BIOLOGICALLY EQUIVALENT DRUG TO BE SUBSTITUTED FOR A DRUG DESIGNATED BY A TRADE OR BRAND NAME IF IT IS AVAILABLE AND UNLESS YOUR PHYSICIAN REQUESTS OTHERWISE. CONSULT YOUR PHARMACIST CONCERNING THE AVAILABILITY OF THE LEAST EXPENSIVE DRUG FOR YOUR USE.

2. The information required by subsection 1 may be combined with the notice required by NRS 639.28025. (1979, p. 1349.)

Miscellaneous Provisions

639.263. False or misleading advertising.

No registered pharmacist or owner of any pharmacy licensed under the provisions of this chapter may make, disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or in any other manner or means whatever, any statement concerning prices or services, professional or otherwise, which is untrue or misleading, and which is known, or which by

the exercise of reasonable care should be known, to be false or misleading. (1967, p. 1663.)

Cross references. — As to actions against seller of unapproved drug for misrepresentation, see NRS 41.610. As to displaying goods with false trademark, see NRS 205.210.

639.264. Rebates, refunds and commissions.

1. No registered pharmacist, or owner of any pharmacy licensed under the provisions of this chapter, may offer, deliver or pay any unearned rebate, refund, commission, preference, patronage dividend, discount or other unearned consideration to any person, whether in the form of money or otherwise, as compensation or inducement to such person for referring prescriptions, patients, clients or customers to such pharmacist or pharmacy, irrespective of any membership, proprietary interest or co-ownership in or with any person by whom such prescriptions, patients, clients or customers are referred.

2. The furnishing to a practitioner by a pharmacist or a pharmacy of prescription blanks bearing the name or name and address of any pharmacy is an unearned rebate and an inducement to refer patients to such pharmacist or pharmacy. (1967, p. 1663; 1979, p. 1695.)

RESEARCH REFERENCES

Validity and construction of statutes punishing commercial bribery. 1 A.L.R.3d 1350.

639.265. Pharmacists may trade or exchange drugs if necessary for business.

A registered pharmacist may trade or exchange drugs with another such pharmacist when any such trade or exchange is necessary to the business of either such pharmacist. (1969, p. 627.)

639.267. Return of unused drugs packaged in unit doses.

1. As used in this section, "unit dose" means that quantity of a drug which is packaged as a single dose.

2. A pharmacist who provides a regimen of drugs in unit doses to a patient in a facility for skilled nursing or facility for intermediate care as defined in chapter 449 of NRS may credit the person or agency which paid for the drug for any unused doses. The pharmacist may return the drugs to the issuing pharmacy, which may reissue the drugs to fill other prescriptions.

3. Except Schedule II drugs specified in or pursuant to chapter 453 of NRS, unit doses packaged in ampules or vials which do not require refrigeration may be returned to the pharmacy which dispensed them. The board shall, by regulation, authorize the return of any other type or brand of drug which is

packaged in unit doses if the Food and Drug Administration has approved the packaging for that purpose. (1979, p. 981; 1981, p. 840; 1985, p. 1769.)

639.270. Sales by grocers and dealers.

Any drug, medicine, remedy, poison or chemical, the sale of which is not otherwise restricted as provided by this chapter, and any patent or proprietary medicine, may be sold by grocers and dealers generally without restriction when prepared and sold in original and unbroken packages and, if poisonous, labeled with the official poison labels and sold in accordance with the requirements of the Federal Food, Drug and Cosmetic Act. (1913, p. 574; 1925, p. 236; 1947, p. 667; 1949, p. 554; 1951, p. 290; 1953, p. 588; 1967, p. 1650.)

639.280. Restrictions on signs and advertising.

No store, shop, area, place or premises shall have upon it or displayed within it or affixed to or used in connection with it any sign or advertising:

1. Bearing the words "Pharmacist," "Pharmacy," "Apothecary," "Drug Store," "Druggist," "Drugs," "Medicine," "Medicine Store," "Drug Sundries," "Remedies," "Prescriptions," "Medications" or "Medicinals," or any word or words of similar or like import;
2. Where the characteristic symbols of pharmacy are exhibited; or
3. Where the characteristic prescription sign Rx or similar design is exhibited,

unless there is within the store, shop, area, place or premises a pharmacy licensed pursuant to the provisions of this chapter. (1913, p. 574; 1925, p. 236; 1947, p. 667; 1949, p. 554; 1951, p. 290; 1953, p. 588; 1967, p. 1650.)

Cross references. — As to advertising goods to produce miscarriage as unlawful, see NRS 202.200.

639.2801. Requirements for labeling containers for prescribed drugs.

Unless specified to the contrary in writing on the prescription by the prescribing practitioner, all prescriptions filled in any pharmacy must be dispensed in a container to which is affixed a label or other device which clearly shows:

1. The date;
2. The name, address and prescription serial number of the pharmacy;
3. The names of the prescribing practitioner and of the person for whom prescribed;
4. The number of dosage units;
5. Specific directions for use given by the prescribing practitioner;

6. The expiration date of the effectiveness of the drug or medicine dispensed, if such information is required on the original label of the manufacturer of such drug or medicine;

7. The proprietary or generic name of the drug or medicine as written by the prescribing practitioner; and

8. The strength of such drug or medicine, and contains the warning:

Caution: Do not use with alcohol or nonprescribed drugs without consulting the prescribing practitioner. (1973, p. 265; 1975, p. 224; 1979, p. 1695.)

639.2802. Availability of information concerning prices of prescriptions.

Prescription price information shall be made available by a pharmacist upon request. (1973, p. 265.)

639.28025. Notice of availability of list of prices for drugs and professional services to be posted.

In every pharmacy there must be posted on the premises in a place conspicuous to customers and easily accessible and readable by customers a notice, provided by the board, advising customers that a price list of drugs and professional services is available to them upon request. (1979, p. 355.)

639.2803. Dispensing specific drugs when choice of drugs available.

No person who owns a pharmacy licensed under this chapter may require a pharmacist in his employment to dispense a specific drug when a choice of drugs is available. (1977, p. 632.)

639.2804. Filling prescriptions for amygdalin and procaine hydrochloride.

1. A prescription for the substance having the trade name "laetrile" shall be considered as an order for the substance by its generic name, amygdalin. The prescription may be filled with "laetrile" or its generic equivalent.

2. A prescription for the substance having the trade name "Gerovital H3" shall be considered as an order for procaine hydrochloride with preservatives and stabilizers, and the order may be filled using similar products manufactured under other trade names. (1977, p. 1647.)

RESEARCH REFERENCES

Right of medical patient to obtain, or physician to prescribe, Laetrile for treatment of illness. 5 A.L.R.4th 219.

639.2805. Substances licensed for manufacture in Nevada: Filling prescriptions; labeling of containers.

1. A pharmacist is not subject to any penalty for filling a prescription for a substance licensed for manufacture in this state if the prescription is issued to a patient by his physician.

2. If a substance licensed for manufacture in this state has not been approved as a drug by the Food and Drug Administration, the label or other device affixed to its container must so state and the label must further state that the State of Nevada has not approved the substance. (1977, p. 1647; 1983, p. 151.)

RESEARCH REFERENCES

Validity of statute or ordinance prohibiting pharmacists to advertise prices of drugs or medicines. 44 A.L.R.3d 1301.

639.2806. Parenteral solutions: Limitation on sale and dispensing.

A parenteral solution which is utilized by a patient in his home or in a facility for the dependent or a medical facility, other than a hospital as defined in NRS 449.012, may only be sold or dispensed:

1. By a registered pharmacist or a practitioner;
2. If the date of expiration is on its label; and
3. If a practitioner, registered pharmacist or a registered nurse is available at all times for immediate assistance to the patient in case of any pharmaceutical problems encountered in its use. (1985, p. 867.)

639.2807. Parenteral solutions: Compounding; regulation by board.

1. Any parenteral which needs to be compounded in this state before distribution for use in a home or a facility for the dependent or a medical facility, other than a hospital as defined in NRS 449.012, must be compounded, packaged and labeled:

(a) By a registered pharmacist in a pharmacy licensed in this state, if those services are readily available. The pharmacy shall ensure that the parenterals are delivered to the patient and are not available for use after the date of expiration.

(b) Pursuant to regulations adopted by the board if those services are not so readily available.

2. In order to maintain the stability of parenteral solutions and to prevent their contamination and that of the personnel of the pharmacy, the board shall adopt regulations, to include:

(a) The procedures for the compounding, packaging, replacement and disposal of parenteral solutions;

(b) The conditions under which these solutions must be prepared, stored and delivered;

(c) The equipment required for the preparation, sterilization and storage of these solutions and the maintenance and cleaning of this equipment; and

(d) The procedures for the proper disposal of any material used in the preparation of these solutions. (1985, p. 867.)

Unlawful Acts and Penalties

639.281. False representations.

1. Any person who secures or attempts to secure registration for himself or any other person by making, or causing to be made, any false representation or who fraudulently represents himself to be a registered pharmacist is guilty of a misdemeanor.

2. Any certificate issued by the board on information later found to be false or fraudulent shall be automatically canceled by the board. (1967, p. 1664.)

639.2813. False representation as practitioner or agent; unauthorized transmission of order for prescription by agent.

1. Except as provided in NRS 453.331 and 454.311, it is unlawful for any person falsely to represent himself as a practitioner entitled to write prescriptions in this state, or the agent of such a person, for the purpose of transmitting to a pharmacist an order for a prescription.

2. It is unlawful for the agent of a practitioner entitled to write prescriptions in this state willfully to transmit to a pharmacist an order for a prescription if the agent is not authorized by the practitioner to transmit such order. (1979, pp. 342, 1697; 1981, p. 1968.)

639.2815. Fraudulent or excessive charge or claim under program of public assistance; penalty.

Any pharmacist who knowingly submits to the state or any of its political subdivisions or any agent thereof, a charge or claim for drugs or medical supplies furnished to or for any person receiving medical care under any program of public assistance, which is false or which is in excess of any amount duly established by law or regulations promulgated by the department of human resources or by the governing body of any political subdivision, as the price or fee for the furnishing of such drug or medical supplies, shall be punished by imprisonment in the state prision for not less than 1 year nor more than 6 years, or by a fine of $5,000, or by both fine and imprisonment. (1973, pp. 783, 1406; 1979, p. 1490.)

639.282. Unlawful possession or sale of certain pharmaceutical preparations, drugs or chemicals; destruction.

1. Except as provided in NRS 639.267, it is unlawful for any person to have in his possession, or under his control, for the purpose of resale, or to sell or offer to sell or dispense or give away, any pharmaceutical preparation, drug or chemical which:

(a) Has been dispensed pursuant to a prescription or chart order and has left the control of a registered pharmacist;

(b) Has been damaged or subjected to damage by heat, smoke, fire or water, or other cause which might reasonably render it unfit for human or animal use;

(c) Has been obtained through bankruptcy or foreclosure proceedings, or other court action, auction or other legal or administrative proceedings, except when the pharmaceutical preparation, drug or chemical is in the original sealed container;

(d) Is no longer safe or effective for use, as indicated by the expiration date appearing on the label thereof; or

(e) Has not been properly stored or refrigerated as required by the label thereof.

2. The provisions of subsection 1 do not apply if the person in whose possession the pharmaceutical preparation, drug or chemical is found also has in his possession a valid and acceptable certification of analysis attesting to the purity and strength of the pharmaceutical preparation, drug or chemical and attesting to the fact that it can be safely and effectively used by humans or animals. No such preparation, drug or chemical may be sold or otherwise disposed of until the certification above referred to has been presented to and approved by the board.

3. In the absence of conclusive proof that the preparation, drug or chemical can be used safely and effectively by humans or animals, it must be destroyed under the direct supervision of a member or inspector of the board. (1967, p. 1664; 1979, p. 982.)

639.2825. Unlawful to dispense or fit contact lens.

It is unlawful for the holder of a certificate of registration or a certificate as an intern pharmacist, a license or a permit granted under the provisions of this chapter to dispense, sell, furnish or fit any cosmetic or therapeutic contact lens or any contact lens which is used to correct visual acuity. (1985, p. 870.)

639.283. Use of intoxicating liquor, depressant drug or controlled substance while on duty in pharmacy.

Any person who, while on duty in a pharmacy licensed by the board, sells, dispenses or compounds any prescription, or sells any drug or poison while under the influence of intoxicating liquor or any depressant drug or controlled substance, unless taken pursuant to a physician's prescription, is guilty of a misdemeanor. (1967, p. 1644; 1971, p. 2043; 1973, p. 783; 1985, p. 886.)

Cross references. — As to prescriptions for dangerous drugs, see NRS 454.221 to 454.276

639.284. Unlawful dispensing and sales.

Any person who:

1. Being the licensed proprietor of a pharmacy, fails to place a registered pharmacist in charge of such pharmacy, or permits the compounding or dispensing of drugs or prescriptions, or the selling of drugs, poisons or devices, the sale of which is restricted by the provisions of this chapter, by any person other than a registered pharmacist or an intern pharmacist, is guilty of a misdemeanor.

2. Is not a registered pharmacist and who takes charge of or acts as manager of any pharmacy, compounds or dispenses any prescription, or sells any drug, poison or device, the sale of which is restricted by the provisions of this chapter, is guilty of a misdemeanor. (1967, p. 1664; 1975, p. 204.)

639.2845. Selling or dispensing of procaine hydrochloride.

1. A pharmacist is not subject to any penalty for dispensing or selling without a prescription oral doses of procaine hydrochloride with preservatives and stabilizers (Gerovital H3) manufactured in this state.

2. A pharmacist who dispenses or sells procaine hydrochloride with preservatives and stabilizers (Gerovital H3) pursuant to this section without a prescription shall maintain a register of persons to whom it was dispensed or sold. The register must contain:

(a) The name and address of the person to whom it was sold or dispensed;

(b) The amount sold or dispensed and the date;

(c) The signature of the person to whom it was sold or dispensed; and

(d) The signature of the dispenser, who must be a registered pharmacist or a registered intern pharmacist acting under the direct and immediate supervision of a registered pharmacist. (1983, p. 337.)

639.285. Unlawful sales by unlicensed persons.

Any person not licensed by the board, who sells, displays or offers for sale any drug, device or poison, the sale of which is restricted to prescription only or by a registered pharmacist or under his direct and immediate supervision, is guilty of a misdemeanor. (1967, p. 1665.)

639.286. Violation of board's regulations.

Regulations officially adopted by the board under the powers granted by NRS 454.110 and 639.073 as those regulations apply to the restricted sale of drugs and the sale or labeling of poisons apply to all persons alike. Violation of those regulations is a misdemeanor. (1967, p. 1665; 1971, p. 686; 1979, p. 1695; 1981, p. 750; 1985, p. 370.)

Effective date. — The 1985 amendment became effective April 17, 1985.

639.287. Failure to furnish information concerning employees; false information.

1. When called upon by a member, inspector or investigator of the board, the owner or manager of any pharmacy or other store retailing drugs, medicines or poisons or a wholesaler or manufacturer of drugs shall furnish the member, inspector or investigator with the name of the owner or owners, manager or managers, partners or corporation officers and all employees together with a statement of the capacity in which each of these persons is employed or the extent to which each is engaged in the operation of the licensed establishment.

2. Any person who refuses to furnish this information or willfully furnishes false information is guilty of a misdemeanor. (1967, p. 1665.)

639.288. Unlawful sales by wholesalers and manufacturers.

It is unlawful for any wholesaler or manufacturer to furnish, sell, offer for sale, or deliver any drugs, poisons, chemicals or devices, other than those referred to in NRS 639.270, to any person not authorized by the laws of this state to handle, sell, possess or deal in such drugs, poisons, chemicals or devices. (1967, p. 1665.)

639.300. Recovery of penalties; conduct of actions and prosecutions by district attorney.

1. The several penalties prescribed in this chapter may be recovered in any court having jurisdictions, by a civil action instituted by the board, in the name of the State of Nevada, or by criminal prosecution upon complaint being made.

2. The district attorney of the county wherein violations of the provisions of this chapter occur shall conduct all such actions and prosecutions at the request of the board. (1913, p. 575; RL 1912 (1919 Supp.), § 21, p. 3153; CL 1929, § 5100.)

OPINIONS OF ATTORNEY GENERAL

Failure to pay license fee. — Although NRS 639.230 does not provide a criminal penalty for the failure to pay the annual pharmacy license fee, this section is applicable to the collection of the license fee. AGO 686 (10-5-1948).

639.310. Penalty.

Any person, firm, corporation, partnership or association violating any of the provisions of this chapter is guilty of a misdemeanor. (1913, p. 573; 1951, p. 290; 1965, p. 544; 1967, pp. 642, 1650.)

from the board an inactive license. The initial license and renewal fees shall be determined by the board. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the board. [1984 c 153 § 11; 1979 c 90 § 12; 1971 ex.s. c 201 § 6; 1963 c 38 § 9; 1949 c 153 § 2; 1935 c 98 § 5; 1899 c 121 § 11; Rem. Supp. 1949 § 10136. Formerly RCW 18.64.140 and 18.64.150.]

Severability——1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.160 Refusal, suspension, and revocation of pharmacist's and intern's licenses——Grounds——Procedure. The board of pharmacy shall have the power to refuse, suspend, or revoke the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) He or she has been convicted of a felony relating to his or her practice as a pharmacist;

(3) He or she has committed any act involving moral turpitude, dishonesty, or corruption, if the act committed directly relates to the pharmacist's fitness to practice pharmacy. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent pharmacist of the crime described in the indictment or information, and of his or her violation of the statute upon which it is based;

(4) He or she is unfit to practice pharmacy because of habitual intemperance in the use of alcoholic beverages, drugs, controlled substances, or any other substance which impairs the performance of professional duties;

(5) He or she exhibits behavior which may be due to physical or mental impairment, which creates an undue risk of causing harm to him or herself or to other persons when acting as a licensed pharmacist or intern;

(6) He or she has incompetently or negligently practiced pharmacy, creating an unreasonable risk of harm to any individual;

(7) His or her legal authority to practice pharmacy, issued by any other properly constituted licensing authority of any other state, has been and is currently suspended or revoked;

(8) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the board upon the entry of the judgment, regardless of the pendency of an appeal;

(9) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, Title 69 RCW, or rule or regulation of the board;

(10) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(11) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: *Provided, however,* That nothing herein shall be construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices.

In any case of the refusal, suspension, or revocation of a license by said board of pharmacy under the provisions of this chapter, said board shall proceed in accordance with chapter 34.04 RCW. [1985 c 7 § 60; 1984 c 153 § 12; 1979 c 90 § 13; 1963 c 38 § 10; 1909 c 213 § 10; RRS § 10143. Formerly RCW 18.64.160 through 18.64.190.]

18.64.165 Refusal, suspension, and revocation of other licenses. The board shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, or peddler upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) The licensee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy. [1979 c 90 § 14; 1963 c 38 § 15.]

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act——Suspension of license: RCW 69.50.413.

18.64.200 Refusal, suspension, and revocation of other licenses——Appeal procedure. In any case of the refusal, suspension or revocation of a license by said board under the provisions of this chapter, appeal may be taken in accordance with the administrative procedure act. [1963 c 38 § 11; 1909 c 213 § 11; RRS § 10144. Formerly RCW 18.64.200 through 18.64.240.]

Administrative procedure act: Title 34 RCW.

18.64.245 Prescription records. Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than five years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All record-keeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only: *Provided,* That the record of prescriptions shall be open for inspection by the board of pharmacy or any officer of the law. [1979 c 90 § 15; 1939 c 28 § 1; RRS § 6154-1. Formerly RCW 18.67.090.]

state are hereby required, without additional compensation, to assist in the execution of *this act, and in the prosecution of all persons charged with the violation thereof, in like manner and with like powers as they are now authorized and required by law to enforce the laws of this state against the adulteration of food and fraud in the sale thereof. [1905 c 50 § 2; RRS § 6143. Formerly RCW 69.40.020, part.]

*Reviser's note: (1) "This act" appears in 1905 c 50 and the sections of the act are codified as RCW 69.40.020 and 69.40.025.

(2) The duties of the state dairy and food commissioner have devolved upon the director of agriculture through a chain of statute as follows: 1913 c 60 § 6(2); 1921 c 7 § 93(1). See RCW 43.23.090(1).

69.40.030 Placing poison or other harmful object or substance in food, drinks, medicine or water——Penalty. Every person who shall wilfully mingle poison or place any harmful object or substance, including but not limited to pins, tacks, needles, nails, razor blades, wire, or glass in any food, drink, medicine, or other edible substance intended or prepared for the use of a human being or who shall knowingly furnish, with intent to harm another person, any food, drink, medicine, or other edible substance containing such poison or harmful object or substance to another human being, and every person who shall wilfully poison any spring, well or reservoir of water, shall be punished by imprisonment in the state penitentiary for not less than five years or by a fine of not less than one thousand dollars: *Provided, however,* That *this act shall not apply to the employer or employers of a person who violates the provisions contained herein without such employer's knowledge. [1973 c 119 § 1; 1909 c 249 § 264; RRS § 2516. Prior: Code 1881 § 802; 1873 p 185 § 27; 1869 p 202 § 25; 1854 p 79 § 25.]

Reviser's note: *(1) "this act" refers to the amendment to this section by 1973 c 119 § 1.

(2) Caption for 1909 c 249 § 264 reads: "Wilfully poisoning food."

69.40.055 Selling repackaged poison without labeling——Penalty. It shall be unlawful for any person to sell at retail or furnish any repackaged poison drug or product without affixing or causing to be affixed to the bottle, box, vessel, or package a label containing the name of the article, all labeling required by the Food and Drug Administration and other federal or state laws or regulations, and the word "poison" distinctly shown with the name and place of the business of the seller.

This section shall not apply to the dispensing of drugs or poisons on the prescription of a practitioner.

The board of pharmacy shall have the authority to promulgate rules for the enforcement and implementation of this section.

Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. [1981 c 147 § 4.]

69.40.150 Drug control assistance unit investigative assistance for enforcement of chapter. See RCW 43.43.610.

Chapter 69.41

LEGEND DRUGS——PRESCRIPTION DRUGS

Sections

69.41.010 Definitions. As used in this chapter:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(4) "Dispenser" means a practitioner who dispenses.

(5) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(6) "Distributor" means a person who distributes.

(7) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(8) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

(9) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(10) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18-.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, an osteopathic physician's assistant under chapter 18.57A RCW, or a physician's assistant under chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state, or province of Canada, which shares a common border with the state of Washington. [1984 c 153 § 17; 1980 c 71 § 1; 1979 ex.s. c 139 § 1; 1973 1st ex.s. c 186 § 1.]

69.41.020 Prohibited acts——Information not privileged communication. Legend drugs shall not be sold, delivered, dispensed or administered except in accordance with this chapter.

(1) No person shall obtain or attempt to obtain a legend drug, or procure or attempt to procure the administration of a legend drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

(2) Information communicated to a practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a legend drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, or any practitioner.

(5) No person shall make or utter any false or forged prescription or other written order for legend drugs.

(6) No person shall affix any false or forged label to a package or receptacle containing legend drugs. [1973 1st ex.s. c 186 § 2.]

69.41.030 Sale, delivery or possession of legend drug without prescription or order prohibited——Exceptions. It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces, marine hospital service, or public health service in the discharge of his official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his official duties, a registered nurse under chapter 18.88 RCW when authorized by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners, or a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any province of Canada which shares a common border with the state of Washington or in any state of the United States: *Provided, however,* That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: *Provided further,* That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the department of social and health services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: *Provided further,* That it shall be unlawful to fill a prescription written by an authorized prescriber who is not licensed in this state if more than six months has passed since the date of the issuance of the original prescription. [1987 c 144 § 1; 1981 c 120 § 1; 1979 ex.s. c 139 § 2; 1977 c 69 § 1; 1973 1st ex.s. c 186 § 3.]

69.41.032 Prescription of legend drugs by dialysis programs. This chapter shall not prevent a medicare-

approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the board pursuant to rule. [1987 c 41 § 2.]

Application of pharmacy statutes to dialysis programs: RCW 18.64.257.

69.41.040 Prescription requirements. A prescription, in order to be effective in legalizing the possession of legend drugs, must be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. An order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this section; and the person who knows or should know that he is filling such an order, as well as the person issuing it, may be charged with violation of this chapter. A legitimate medical purpose shall include use in the course of a bona fide research program in conjunction with a hospital or university. [1973 1st ex.s. c 186 § 4.]

69.41.050 Labeling requirements. To every box, bottle, jar, tube or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, there shall be affixed a label bearing the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name and strength per unit dose, name of patient and date: *Provided*, That the practitioner may omit the name and dosage of the drug if he determines that his patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient. [1980 c 83 § 8; 1973 1st ex.s. c 186 § 5.]

69.41.060 Search and seizure. If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior or district court that there is probable cause to believe that any legend drug is being used, manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any peace officer in the county, commanding the peace officer to search the premises designated and described in such complaint and warrant, and to seize all legend drugs there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such legend drugs and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such legend drugs, furniture or fixtures so seized, and if no person be found in the possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or, if there be no door, then in any conspicuous place upon the premises. [1987 c 202 § 227; 1973 1st ex.s. c 186 § 6.]

Intent——1987 c 202: See note following RCW 2.04.190.

69.41.070 Penalties. Whoever violates any provision of this chapter shall, upon conviction, be fined and imprisoned as herein provided:

(1) For a violation of RCW 69.41.020, the offender shall be guilty of a felony.

(2) For a violation of RCW 69.41.030 involving the sale, delivery, or possession with intent to sell or deliver, the offender shall be guilty of a felony.

(3) For a violation of RCW 69.41.030 involving possession, the offender shall be guilty of a misdemeanor.

(4) For a violation of RCW 69.41.040, the offender shall be guilty of a felony.

(5) For a violation of RCW 69.41.050, the offender shall be guilty of a misdemeanor.

(6) Any offense which is a violation of chapter 69.50 RCW other than RCW 69.50.401(c) shall not be charged under this chapter. [1983 1st ex.s. c 4 § 4; 1973 1st ex.s. c 186 § 7.]

Severability——1983 1st ex.s. c 4: See note following RCW 9A.48.070.

69.41.075 Rules——Availability of lists of drugs. The state board of pharmacy may make such rules for the enforcement and administration of this chapter as are deemed necessary or advisable. The board shall identify, by rule-making pursuant to chapter 34.04 RCW, those drugs which may be dispensed only on prescription or are restricted to use by practitioners, only. In so doing the board shall consider the toxicity or other potentiality for harmful effect of the drug, the method of its use, and any collateral safeguards necessary to its use. The board shall classify a drug as a legend drug where these considerations indicate the drug is not safe for use except under the supervision of a practitioner.

In identifying legend drugs the board may incorporate in its rules lists of drugs contained in commercial pharmaceutical publications by making specific reference to each such list and the date and edition of the commercial publication containing it. Any such lists so incorporated shall be available for public inspection at the headquarters of the state board of pharmacy and shall be available on request from the board upon payment of a reasonable fee to be set by the board. [1979 ex.s. c 139 § 3.]

SUBSTITUTION OF PRESCRIPTION DRUGS

69.41.100 Legislative recognition and declaration. The legislature recognizes the responsibility of the state to insure that the citizens of the state are offered a choice between generic drugs and brand name drugs and the benefit of quality pharmaceutical products at competitive prices. Advances in the drug industry resulting from research and the elimination of counterfeiting of prescription drugs should benefit the users of the drugs. Pharmacy must continue to operate with accountability and effectiveness. The legislature hereby declares it to be the policy of the state that its citizens receive safe and therapeutically effective drug products at the most reasonable cost consistent with high drug quality standards. [1986 c 52 § 1; 1977 ex.s. c 352 § 1.]

Severability——1977 ex.s. c 352: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 352 § 10.] This applies to RCW 69.41.100 through 69.41.180.

69.41.110 Definitions. As used in RCW 69.41.100 through 69.41.180, the following words shall have the following meanings:

(1) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label, or wrapping at the time of packaging;

(2) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(3) "Substitute" means to dispense, with the practitioner's authorization, a "therapeutically equivalent" drug product of the identical base or salt as the specific drug product prescribed: *Provided*, That with the practitioner's prior consent, therapeutically equivalent drugs other than the identical base or salt may be dispensed;

(4) "Therapeutically equivalent" means essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen; and

(5) "Practitioner" means a physician, osteopathic physician and surgeon, dentist, veterinarian, or any other person authorized to prescribe drugs under the laws of this state. [1979 c 110 § 1; 1977 ex.s. c 352 § 2.]

69.41.120 Prescriptions to contain instruction as to whether or not a therapeutically equivalent generic drug may be substituted——Form——Contents——Procedure. Every drug prescription shall contain an instruction on whether or not a therapeutically equivalent generic drug may be substituted in its place, unless substitution is permitted under a prior–consent authorization.

If a written prescription is involved, the form shall have two signature lines at opposite ends on the bottom of the form. Under the line at the right side shall be clearly printed the words "DISPENSE AS WRITTEN". Under the line at the left side shall be clearly printed the words "SUBSTITUTION PERMITTED". The practitioner shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the practitioner on one of these lines.

If an oral prescription is involved, the practitioner or the practitioner's agent shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug may be substituted in its place. The pharmacist shall note the instructions on the file copy of the prescription.

The pharmacist shall note the manufacturer of the drug dispensed on the file copy of a written or oral prescription. [1979 c 110 § 2; 1977 ex.s. c 352 § 3.]

69.41.130 Savings in price to be passed on to purchaser. Unless the brand name drug is requested by the patient or the patient's representative, the pharmacist shall substitute an equivalent drug product which he has in stock if its wholesale price to the pharmacist is less than the wholesale price of the prescribed drug product, and at least sixty percent of the savings shall be passed on to the purchaser. [1986 c 52 § 2; 1979 c 110 § 3; 1977 ex.s. c 352 § 4.]

69.41.140 Minimum manufacturing standards and practices. A pharmacist may not substitute a product under the provisions of this section unless the manufacturer has shown that the drug has been manufactured with the following minimum good manufacturing standards and practices:

(1) Maintain quality control standards equal to those of the Food and Drug Administration;

(2) Comply with regulations promulgated by the Food and Drug Administration. [1979 c 110 § 4; 1977 ex.s. c 352 § 5.]

69.41.150 Liability of practitioner, pharmacist. (1) A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed.

(2) A pharmacist who substitutes an equivalent drug product pursuant to RCW 69.41.100 through 69.41.180 as now or hereafter amended assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name. [1979 c 110 § 5; 1977 ex.s. c 352 § 6.]

69.41.160 Pharmacy signs as to substitution for prescribed drugs. Every pharmacy shall post a sign in a location at the prescription counter that is readily visible to patrons stating, "Under Washington law, an equivalent but less expensive drug may in some cases be substituted for the drug prescribed by your doctor. Such substitution, however, may only be made with the consent of your doctor. Please consult your pharmacist or physician for more information." [1979 c 110 § 6; 1977 ex.s. c 352 § 7.]

69.41.170 Coercion of pharmacist prohibited——Penalty. It shall be unlawful for any employer to coerce,

within the meaning of RCW 9A.36.070, any pharmacist to dispense a generic drug or to substitute a generic drug for another drug. A violation of this section shall be punishable as a misdemeanor. [1977 ex.s. c 352 § 8.]

69.41.180 Rules. The state board of pharmacy may adopt any necessary rules under chapter 34.04 RCW for the implementation, continuation, or enforcement of RCW 69.41.100 through 69.41.180, including, but not limited to, a list of therapeutically or nontherapeutically equivalent drugs which, when adopted, shall be provided to all registered pharmacists in the state and shall be updated as necessary. [1979 c 110 § 7; 1977 ex.s. c 352 § 9.]

IDENTIFICATION OF LEGEND DRUGS——MARKING

69.41.200 Requirements for identification of legend drugs——Marking. (1) No legend drug in solid dosage form may be manufactured or commercially distributed within this state unless it has clearly marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(2) No manufacturer or distributor may sell any legend drug contained within a bottle, vial, carton, or other container, or in any way affixed or appended to or enclosed within a package of any kind designed or intended for delivery in such container or package to an ultimate consumer within this state unless such container or package has clearly and permanently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(3) Whenever the distributor of a legend drug does not also manufacture it, the names and places of businesses of both shall appear on the stock container or package label in words that truly distinguish each. [1980 c 83 § 1.]

69.41.210 Definitions. The terms defined in this section shall have the meanings indicated when used in RCW 69.41.200 through 69.41.260.

(1) "Distributor" means any corporation, person, or other entity which distributes for sale a legend drug under its own label even though it is not the actual manufacturer of the legend drug.

(2) "Solid dosage form" means capsules or tablets or similar legend drug products intended for administration and which could be ingested orally.

(3) "Legend drug" means any drugs which are required by state law or regulation of the board to be dispensed as prescription only or are restricted to use by prescribing practitioners only and shall include controlled substances in Schedules II through V of chapter 69.50 RCW.

(4) "Board" means the state board of pharmacy. [1980 c 83 § 2.]

69.41.220 Published lists of drug imprints——Requirements for. Each manufacturer and/or distributor shall publish and provide to the board printed material which will identify each current imprint used by the manufacturer or distributor and the board shall be notified of any change. This information shall be provided by the board to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms. [1980 c 83 § 3.]

69.41.230 Drugs in violation are contraband. Any legend drug prepared or manufactured or offered for sale in violation of this chapter or implementing rules shall be contraband and subject to seizure under the provisions of RCW 69.41.060. [1980 c 83 § 4.]

69.41.240 Rules——Labeling and marking. The board shall have authority to promulgate rules and regulations for the enforcement and implementation of RCW 69.41.050 and 69.41.200 through 69.41.260. [1980 c 83 § 5.]

69.41.250 Exemptions. (1) The board, upon application of a manufacturer, may exempt a particular legend drug from the requirements of RCW 69.41.050 and 69-.41.200 through 69.41.260 on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

(2) The provisions of RCW 69.41.050 and 69.41.200 through 69.41.260 shall not apply to any legend drug which is prepared or manufactured by a pharmacy in this state and is for the purpose of retail sale from such pharmacy and not intended for resale. [1980 c 83 § 6.]

69.41.260 Effective date. All legend drugs manufactured or distributed for resale to any entity in this state other than the ultimate consumer shall meet the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 from a date eighteen months after June 12, 1980. [1980 c 83 § 7.]

69.41.900 Severability——1979 c 110. If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 c 110 § 8.]

Chapter 69.45
DRUG SAMPLES

Sections

69.45.010 Definitions. The definitions in this section apply throughout this chapter.

(1) "Board" means the board of pharmacy.

(2) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(3) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Legend drug" means any drug that is required by state law or by regulations of the board to be dispensed on prescription only or is restricted to use by practitioners only.

(8) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(9) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(10) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse under chapter 18.88 RCW when authorized to prescribe by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, or a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners.

(11) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

(12) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations. [1987 c 411 § 1.]

69.45.020 Registration of manufacturers——Additional information required by the board. A manufacturer that intends to distribute drug samples in this state shall register annually with the board, providing the name and address of the manufacturer, and shall:

(1) Provide the board with a twenty-four hour telephone number and the name of the individual(s) who shall respond to reasonable official inquiries from the board, based on reasonable cause, regarding required records, reports, or requests for information pursuant to a specific investigation of a possible violation. Each official request by the board and each response by a manufacturer shall be limited to the information specifically relevant to the particular official investigation. Requests for the address of sites in this state at which drug samples are stored by the manufacturer's representative and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples shall be responded to as soon as possible but not later than the board's close of business on the next business day following the request; or

(2) If a twenty-four hour telephone number is not available, provide the board with the addresses of sites in this state at which drug samples are stored by the manufacturer's representative, and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples. The manufacturer shall annually submit a complete updated list of the sites and individuals to the board. [1987 c 411 § 2.]

69.45.030 Records maintained by manufacturer——Report of loss or theft of drug samples——Reports of practitioners receiving controlled substance samples. (1) The following records shall be maintained by the manufacturer distributing drug samples in this state and shall be available for inspection by authorized representatives of the board based on reasonable cause and pursuant to an official investigation:

(a) An inventory of drug samples held in this state for distribution, taken at least annually by a representative of the manufacturer other than the individual in direct control of the drug samples;

(b) Records or documents to account for all drug samples distributed, destroyed, or returned to the manufacturer. The records shall include records for sample drugs signed for by practitioners, dates and methods of destruction, and any dates of returns; and

(c) Copies of all reports of lost or stolen drug samples.

(2) All required records shall be maintained for two years and shall include transaction dates.

(3) Manufacturers shall report to the board the discovery of any loss or theft of drug samples as soon as possible but not later than the board's close of business on the next business day following the discovery.

(4) Manufacturers shall report to the board as frequently as, and at the same time as, their other reports to the federal drug enforcement administration, or its lawful successor, the name, address and federal registration number for each practitioner who has received controlled substance drug samples and the name, strength and quantity of the controlled substance drug samples distributed. [1987 c 411 § 3.]

69.45.040 Storage and transportation of drug samples——Disposal of samples which have exceeded their expiration dates. (1) Drug samples shall be stored in compliance with the requirements of federal and state laws, rules, and regulations.

(2) Drug samples shall be maintained in a locked area to which access is limited to persons authorized by the manufacturer.

(3) Drug samples shall be stored and transported in such a manner as to be free of contamination, deterioration, and adulteration.

(4) Drug samples shall be stored under conditions of temperature, light, moisture, and ventilation so as to meet the label instructions for each drug.

(5) Drug samples which have exceeded the expiration date shall be physically separated from other drug samples until disposed of or returned to the manufacturer. [1987 c 411 § 4.]

69.45.050 Distribution of drug samples to legally authorized practitioners——Written request——No fee or charge permitted——Possession of legend drugs or controlled substances by manufacturers' representatives. (1) Drug samples may be distributed by a manufacturer or a manufacturer's representative only to practitioners legally authorized to prescribe such drugs.

(2) Drug samples may be distributed by a manufacturer or a manufacturer's representative only to a practitioner legally authorized to prescribe such drugs pursuant to a written request for such samples. The request shall contain:

(a) The recipient's name, address, and professional designation;

(b) The name, strength, and quantity of the drug samples delivered;

(c) The name or identification of the manufacturer and of the individual distributing the drug sample; and

(d) The dated signature of the practitioner requesting the drug sample.

(3) No fee or charge may be imposed for sample drugs distributed in this state.

(4) A manufacturer's representative shall not possess legend drugs or controlled substances other than those distributed by the manufacturer they represent. Nothing in this section prevents a manufacturer's representative from possessing a legally prescribed and dispensed legend drug or controlled substance. [1987 c 411 § 5.]

69.45.060 Disposal of surplus, outdated, or damaged drug samples. Surplus, outdated, or damaged drug samples shall be disposed of as follows:

(1) Returned to the manufacturer; or

(2) Witnessed destruction by such means as to assure that the drug cannot be retrieved. However, controlled substances shall be returned to the manufacturer or disposed of in accordance with rules adopted by the board: *Provided*, That the board shall adopt by rule the regulations of the federal drug enforcement administration or its lawful successor unless, stating reasonable grounds, it adopts rules consistent with such regulations. [1987 c 411 § 6.]

69.45.070 Registration fees. The board may charge reasonable fees for registration. The registration fee shall not exceed the fee charged by the board for a pharmacy location license. [1987 c 411 § 7.]

69.45.080 Violations of chapter——Manufacturer's liability——Penalty——Seizure of drug samples. (1) The manufacturer is responsible for the actions and conduct of its representatives with regard to drug samples.

(2) The board may hold a public hearing to examine a possible violation and may require a designated representative of the manufacturer to attend.

(3) If a manufacturer fails to comply with this chapter following notification by the board, the board may impose a civil penalty of up to five thousand dollars. The board shall take no action to impose any civil penalty except pursuant to a hearing held in accordance with chapter 34.04 RCW.

(4) Specific drug samples which are distributed in this state in violation of this chapter, following notification by the board, shall be subject to seizure following the procedures set out in RCW 69.41.060. [1987 c 411 § 8.]

69.45.090 Records, reports, and information confidential——Exemption from public inspection under chapter 42.17 RCW. All records, reports, and information obtained by the board from or on behalf of a manufacturer or manufacturer's representative under this chapter are confidential and exempt from public inspection and copying under chapter 42.17 RCW. This section does not apply to public disclosure of the identity of persons found by the board to have violated state or federal law, rules, or regulations. This section is not intended to restrict the investigations and proceedings of the board so long as the board maintains the confidentiality required by this section. [1987 c 411 § 9.]

69.45.900 Severability——1987 c 411. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 411 § 12.]

Chapter 69.43
PRECURSOR DRUGS

Sections

69.43.010 Report to state board of pharmacy——List of substances——Modification of list——Identification of purchasers——Report of transactions——Penalties. (1) Beginning July 1, 1988, a report to the state board of pharmacy shall be submitted in accordance with this chapter by a manufacturer, retailer, or other person who sells, transfers, or otherwise furnishes to any person in this state any of the following substances or their salts or isomers:

(a) Anthranilic acid;
(b) Barbituric acid;
(c) Chlorephedrine;
(d) Diethyl malonate;
(e) D-lysergic acid;
(f) Ephedrine;
(g) Ergotamine tartrate;
(h) Ethylamine;
(i) Ethyl malonate;
(j) Ethylephedrine;
(k) Lead acetate;
(l) Malonic acid;
(m) Methylamine;
(n) Methylformanide;
(o) Methylephedrine;
(p) Methylpseudoephedrine;
(q) N-acetylanthranilic acid;
(r) Norpseudoephedrine;
(s) Phenylacetic acid;
(t) Phenylpropanolamine;
(u) Piperidine;
(v) Pseudoephedrine; and
(w) Pyrrolidine.

(2) The state board of pharmacy shall administer this chapter and may, by rule adopted pursuant to *chapter 34.04 RCW, add a substance to or remove a substance from the list in subsection (1) of this section. In determining whether to add or remove a substance, the board shall consider the following:

(a) The likelihood that the substance is useable as a precursor in the illegal production of a controlled substance as defined in chapter 69.50 RCW;

(b) The availability of the substance;

(c) The relative appropriateness of including the substance in this chapter or in chapter 69.50 RCW; and

(d) The extent and nature of legitimate uses for the substance.

(3) On or before December 1 of each year, the board shall inform the committees of reference of the legislature of the substances added, deleted, or changed in subsection (1) of this section and include an explanation of these actions.

(4) (a) Beginning on July 1, 1988, any manufacturer, wholesaler, retailer, or other person shall, before selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section to a person in this state, require proper identification from the purchaser.

(b) For the purposes of this subsection, "proper identification" means, in the case of a face-to-face purchase, a motor vehicle operator's license or other official state-issued identification of the purchaser containing a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from any business for which any substance specified in subsection (1) of this section is being furnished, which includes the business license number and address of the business, a description of how the substance is to be used, and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser. The state board of pharmacy shall provide by rule for the proper identification of purchasers in other than face-to-face purchases.

(c) A violation of this subsection is a misdemeanor.

(5) Beginning on July 1, 1988, any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subsection (1) of this section to a person in this state shall not less than twenty-one days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (4) of this section to the state board of pharmacy. However, the state board of pharmacy may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the state board of pharmacy determines that either of the following exist:

(a) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance and the recipient of the substance; or

(b) The recipient has established a record of using the substance for lawful purposes.

(6) Any person specified in subsection (5) of this section who does not submit a report as required by this subsection is guilty of a gross misdemeanor. [1988 c § 1.]

*Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

69.43.020 Receipt of substance from source outside state——Report——Penalty. (1) Beginning on July 1, 1988, any manufacturer, wholesaler, retailer, or other person subject to any other reporting requirements in this chapter, who receives from a source outside of this state any substance specified in RCW 69.43.010(1), shall submit a report of such transaction to the state board of pharmacy under rules adopted by the board.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor. [1988 c 147 § 2.]

69.43.030 Exemptions. RCW 69.43.010 and 69.43-.020 do not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a practitioner, as defined in chapter 69.41 RCW;

(2) Any practitioner who administers or furnishes a substance to his or her patients;

(3) Any manufacturer or wholesaler licensed by the state board of pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy or practitioner;

(4) Any sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished, over the counter without a prescription under chapter 69.04 or 69.41 RCW. [1988 c 147 § 3.]

69.43.040 Reporting form. (1) The state board of pharmacy shall provide a common reporting form for the substances in RCW 69.43.010 that contains at least the following information:

(a) Name of the substance;

(b) Quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under subsection (1)(e) of this section may be computer-generated in accordance with rules adopted by the state board of pharmacy. [1988 c 147 § 4.]

69.43.050 Rules. The state board of pharmacy may adopt all rules necessary to carry out this chapter. [1988 c 147 § 5.]

69.43.060 Theft——Missing quantity——Reporting. (1) The theft or loss of any substance under RCW 69-.43.010 discovered by any person regulated by this chapter shall be reported to the state board of pharmacy within seven days after such discovery.

(2) Any difference between the quantity of any substance under RCW 69.43.010 received and the quantity shipped shall be reported to the state board of pharmacy within seven days of the receipt of actual knowledge of the discrepancy. When applicable, any report made pursuant to this subsection shall also include the name of any common carrier or person who transported the substance and the date of shipment of the substance. [1988 c 147 § 6.]

69.43.070 Sale, transfer, or furnishing of substance for unlawful purpose——Receipt of substance with intent to use unlawfully——Class B felony. (1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in RCW 69.43.010 with knowledge or the intent that the recipient will use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW.

(2) Any person who receives any substance listed in RCW 69.43.010 with intent to use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW. [1988 c 147 § 7.]

69.43.080 False statement in report or record——Class C felony. It is unlawful for any person knowingly to make a false statement in connection with any report or record required under this chapter. A violation of this section is a class C felony under chapter 9A.20 RCW. [1988 c 147 § 8.]

69.43.090 Permit to sell, transfer, furnish, or receive substance——Exemptions——Application for permit——Fee——Renewal——Penalty. (1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010 to a person in this state or who receives from a source outside of the state any substance specified in RCW 69.43.010 shall obtain a permit for the conduct of that business from the state board of pharmacy. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) Applications for permits shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The board may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the board.

(5) A permit granted under this chapter may be renewed on a date to be determined by the board, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee.

(6) Permit fees charged by the board shall not exceed the costs incurred by the board in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in RCW 69.43.010 without a required permit, is a gross misdemeanor. [1988 c 147 § 9.]

69.43.100 Refusal, suspension, or revocation of a manufacturer's or wholesaler's permit. The board shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy. [1988 c 147 § 10.]

Chapter 69.45
DRUG SAMPLES

Sections

69.45.080 References revised. (Effective July 1, 1989.)

69.45.080 References revised. (Effective July 1, 1989.)

Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

Chapter 69.50
UNIFORM CONTROLLED SUBSTANCES ACT

Sections

69.50.201 References revised. (Effective July 1, 1989.)
69.50.213 References revised. (Effective July 1, 1989.)
69.50.305 References revised. (Effective July 1, 1989.)
69.50.402 References revised. (Effective July 1, 1989.)
69.50.420 Violations——Juvenile driving privileges.
69.50.501 References revised. (Effective July 1, 1989.)
69.50.505 Seizure and forfeiture.
69.50.507 References revised. (Effective July 1, 1989.)
69.50.510 Search and seizure at rental premises——Notification of landlord.

69.50.201 References revised. (Effective July 1, 1989.)

Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

69.50.213 References revised. (Effective July 1, 1989.)

Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

69.50.305 References revised. (Effective July 1, 1989.)

Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

69.50.402 References revised. (Effective July 1, 1989.)

Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

69.50.420 Violations——Juvenile driving privileges. (1) If a juvenile under eighteen years of age, but thirteen or over, is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, the court, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of this chapter, may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) The court shall not notify the department that the juvenile's privilege to drive should be reinstated for a period of ninety days after the entry of the judgment if it is the first revocation issued with respect to the juvenile under this section or RCW 46.20.265, or for a period of one year after the entry of the judgment if it is the second or subsequent such revocation issued with respect to the juvenile. [1988 c 148 § 5.]

Legislative finding——Severability——1988 c 148: See notes following RCW 13.40.265.

69.50.501 References revised. (Effective July 1, 1989.)

Reviser's note: Effective July 1, 1989, references in this section to chapter 34.04 RCW will be changed to chapter 34.05 RCW pursuant to 1988 c 288 § 706.

69.50.505 Seizure and forfeiture. (a) The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale of property described in paragraphs (1) or (2), but:

NORTH DAKOTA

43-15-31. Physicians' prescriptions to be filed and preserved. Every registered pharmacist in the state shall file, or cause to be filed, any physician's prescription, or a copy thereof, which has been compounded or dispensed in his pharmacy or drugstore. The prescription or a copy of the prescription must be preserved for at least five years after it has been filled. The pharmacist may furnish a copy of any prescription to the party presenting it on the request of such party only.

Source: S.L. 1907, ch. 182, § 23; C.L. 1913, § 497; R.C. 1943, § 43-1531; 1987, ch. 520, § 1.

43-15-32. Who may engage in drug business. Every store, dispensary, pharmacy, laboratory, or office, selling, dispensing, or compounding drugs, medicines, or chemicals, or compounding or dispensing prescriptions of medical practitioners in the state, and every business carried on under a name which contains the words, "drugs", "drugstore", or "pharmacy" or which is described or referred to in such terms by advertisements, circulars, posters, signs, or otherwise, shall be in charge of a registered pharmacist.

Source: S.L. 1907, ch. 182, §§ 2, 26; C.L. 1913, §§ 476, 500; S.L. 1927, ch. 211, § 1; 1931, ch. 212, § 2; R.C. 1943, § 43-1532; S.L. 1975, ch. 106, § 481; 1979, ch. 467, § 12.

43-15-34. Operation of pharmacy — Permit required — Application — Fee. No person, copartnership, association, or corporation shall open, establish, operate, or maintain any pharmacy within this state without first obtaining a permit so to do from the board. Application for the permit shall be made upon a form to be prescribed and furnished by the board and shall be accompanied by a fee to be set by the board not to exceed three hundred dollars. A like fee shall be paid upon each annual renewal thereof. Separate applications shall be made and separate permits required for each pharmacy opened, established, operated, or maintained by the same owner and for the change of location, name, or ownership of an existing pharmacy.

Source: S.L. 1937, ch. 193, § 1; R.C. 1943, § 43-1534; S.L. 1949, ch. 290, § 1; 1957 Supp., § 43-1534; S.L. 1973, ch. 353, § 1; 1979, ch. 467, § 13.

43-15-34.1. Out-of-state pharmacies. Any pharmacy operating outside the state which ships, mails, or delivers in any manner a dispensed prescription drug or legend drug into North Dakota shall obtain and hold a pharmacy permit issued by the North Dakota state board of pharmacy and that part of the pharmacy operation dispensing the prescription for a North Dakota resident shall abide by state law and rules of the board.

Senior Voice
APRIL 1990

HEALTH & MEDICINE

Seniors: More drug use, more adverse reactions

by Jeffrey R. Richardson

Older adults use 25 percent of prescription drugs, more than people in younger age brackets. This makes them, as a group, proportionately more susceptible to adverse drug reactions, according to Cameale Johnson, clinical pharmacist at Humana Hospital-Alaska.

"Older adults are more frequently hospitalized due to adverse drug reactions," Johnson said. And medication misuse accounts for two-thirds of adverse drug reactions in the senior population, she said.

Drug side-effects that may be mild to nonexistent in younger people "may be significant in older adults," Johnson noted.

The phrase "adverse drug reaction" refers to any effect occurring from the use of a drug that is undesirable, including the failure to absorb the drug properly so it can address the targeted problem. A side-effect is a form of adverse reaction which can usually be anticipated because of the constituents of drugs and their known impact on the human organism.

Johnson said there are a number of reasons why people handle drugs differently as they age:

- To be effective, all drugs must be absorbed. Often changes in the gastro-intestinal system prevent drugs from being readily absorbed.
- Drug effectiveness is dependent on good circulation. Throughout the aging process there are changes in the circulatory system which affect the ability of drugs to go to get where they are needed.
- Body composition, that is, the amount of fat or lean muscle tissue in a person, is a factor in the way the body handles drugs, since many drugs are taken up and stored in fat tissue.

"Probably the most significant one is the way we metabolize and excrete the drug," Johnson said. "The activity of the liver declines with age. Also, the kidneys don't always work quite as well. If they don't eliminate them, they're going to be subject to the toxic effect."

Johnson acknowledged it's easy to get prescription drugs confused, especially if a person is being treated for more than one condition. This raises the problem of adverse drug reactions resulting from drug interactions.

A number of steps can be taken to prevent harmful drug interactions. The most important is to utilize the services of one pharmacist who is familiar with your medical history and all of the drugs being utilized. In this way, interactions can be spotted that might be missed because doctors, or other pharmacists, don't know all the drugs a person is taking.

'Medication misuse accounts for two-thirds of adverse drug reactions in the senior population.'
- Cameale Johnson

Johnson cautioned against storing prescription drugs in the bathroom, where they can rapidly deteriorate.

"It's the worst place you can store medications. It's a damp, humid environment," Johnson said. She suggested a hall closet, out of the reach of children.

Johnson also urges people to pay attention to the age of medications.

"I think it's important when you're no longer taking a medication to discard it."

Generally, drugs should not be kept longer than one year from the date the prescription was filled.

Johnson also warns people who tend to lose track of their dosages:

"In general, you should not double up on medications if you think you've skipped a dose," Johnson concluded.

This information is presented by Senior Health Exchange, co-sponsored by Humana Seniors Association and Older Persons Action Group, Inc.