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SENATE BILL 366

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

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AN ACT

RELATING TO PRESCRIPTION DRUGS; PROVIDING FOR COMBINING
REFILLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 26-1-16 NMSA 1978 (being Laws 1967,
Chapter 23, Section 16, as amended) is amended to read:

"26-1-16. DANGEROUS DRUGS--CONDITIONS FOR SALE--
PRESCRIPTION REFILLING--LIMITATIONS.--

A. It is unlawful for [~~any~~] a person to sell,
dispose of or possess any dangerous drugs, except:

(1) manufacturers, wholesalers or
distributors, their agents or employees licensed by the board
to ship dangerous drugs into the state; or

(2) distributors, wholesalers, hospitals,
nursing homes, clinics or pharmacies and other authorized

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1 retailers of dangerous drugs in this state licensed by the
2 board, and appropriate records of dangerous drugs receipt and
3 disposition are kept. These records shall be open to
4 inspection by any enforcement officer of this state.

5 B. Practitioners licensed in this state may
6 prescribe, provide samples of and dispense any dangerous drug
7 to a patient where there is a valid practitioner-patient
8 relationship. A record of all such dispensing shall be kept
9 showing the date the drug was dispensed and bearing the name
10 and address of the patient to whom dispensed. It is the duty
11 of every licensed physician, dentist, veterinarian, pharmacist
12 or person holding a limited license issued under Subsection B
13 of Section 61-11-14 NMSA 1978, when dispensing any dangerous
14 drug, to mark on the dispensing container the name of the
15 patient, the date dispensed, the name and address of the person
16 dispensing the drug, the name and strength of the drug,
17 expiration date where applicable, adequate directions for use
18 and the prescription number when applicable. All official
19 compendium requirements for the preservation, packaging,
20 labeling and storage of dangerous drugs are applicable where
21 drugs are held for dispensing to the public, whether by a
22 pharmacy, clinic, hospital or practitioner.

23 C. Pharmacists are prohibited from selling or
24 disposing of ~~[any]~~ a dangerous drug except on prescription of a
25 practitioner and except as such sale or possession is

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1 authorized under Subsection A of this section. It is the duty
2 of all pharmacists to keep an accurate record of all disposals,
3 which record shall be open to inspection by ~~any~~ an
4 enforcement officer of this state.

5 D. No enforcement officer having knowledge by
6 virtue of ~~his~~ office of ~~any~~ a prescription, order or record
7 shall divulge such knowledge except in connection with a
8 prosecution or proceeding in court or before a licensing or
9 registration board or officer, to which prosecution or
10 proceeding the person to whom such prescriptions, orders or
11 records relate is a party.

12 E. It is unlawful, except as otherwise authorized
13 under Subsection A of this section or the Controlled Substances
14 Act and except for the college of pharmacy of the university of
15 New Mexico or a public health laboratory, for ~~any~~ a person to
16 possess any dangerous drug unless such substance has been
17 dispensed to ~~him~~ the person either directly by a practitioner
18 or on a prescription.

19 F. All records required to be kept under the
20 provisions of the New Mexico Drug, Device and Cosmetic Act
21 shall be preserved for a period of three years, provided that
22 records requirements do not apply to the administration of a
23 drug to a patient upon whom the practitioner personally
24 attends, and provided that records of controlled substances
25 shall be kept in accordance with the provisions of the

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1 Controlled Substances Act.

2 G. No prescription may be lawfully refilled:

3 (1) if it is marked by the issuing
4 practitioner as not to be refilled;

5 (2) when the practitioner indicates a specific
6 number of refills or a specific period of time, on the original
7 prescription calling for a dangerous drug, it may be refilled
8 the number of times or for the period of time indicated; a
9 pharmacist may dispense up to a ninety-day supply by combining
10 valid refills unless specifically prohibited on the

11 prescription by the practitioner; provided, the date of refill,
12 the initials of the pharmacist refilling the prescription and
13 the amount of drug dispensed, if it differs from the amount
14 called for on the original prescription, is recorded on the
15 original prescription; provided, a prescription issued for
16 drugs controlled by the Controlled Substances Act shall comply
17 with that act;

18 (3) when the practitioner does not indicate
19 refill instructions on the original prescription calling for a
20 dangerous drug, unless:

21 (a) the practitioner is contacted
22 orally, by telephone, telegraph or other means of communication
23 for instruction; and

24 (b) if authorization to refill is given
25 the pharmacist, the following information will be immediately

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1 transferred to the original prescription: 1) date; 2) name of
2 person authorizing the refill; 3) pharmacist's initials; and 4)
3 amount dispensed if different [~~than~~] from the amount indicated
4 on the original prescription;

5 (4) when the practitioner indicates on the
6 original prescription calling for dangerous drugs that it may
7 be refilled "prn" the pharmacist may refill it within the
8 limits of the dosage directions for a period of twelve months,
9 provided the date of refilling and the initials of the
10 pharmacist are recorded on the original prescription. At the
11 expiration of the twelve-month period, the practitioner must be
12 contacted for a new prescription; provided that this is not to
13 be construed to apply to those drugs regulated by the
14 Controlled Substances Act; and

15 (5) the board may adopt and promulgate
16 regulations to permit the use of computer systems for the
17 storage and retrieval of prescriptions, records for the purpose
18 of refilling prescriptions, receipt records, drug distribution
19 records, drug withdrawals from stock, drug compounding records,
20 drug disposition records and drug disposal records.

21 H. Nothing in this section shall prevent the owner
22 of livestock or [~~his~~] the owner's consignee or their employees
23 to be in possession of drugs for their use in performing
24 routine, accepted livestock management practices in the care of
25 livestock belonging to the owner, and the drugs are labeled as

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1 being restricted to animal use only; provided, that if such
2 drugs bear the legend: "CAUTION: federal law restricts this
3 drug to use by or on the order of a licensed veterinarian", the
4 drugs may be used or distributed only as provided in Subsection
5 A of Section 26-1-15 NMSA 1978."

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