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HOUSE BILL 551

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Max Coll

AN ACT

RELATING TO PHARMACY; ENACTING THE DRUG PRICING DISCLOSURE ACT;
REQUIRING PHARMACISTS TO PROVIDE PRICES TO CONSUMERS UPON
REQUEST.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 3 of this act may be cited as the "Drug Pricing
Disclosure Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Drug Pricing Disclosure Act is to encourage and facilitate
consumers' personal responsibility in making health care
choices by giving them access to prescription drug pricing.

Section 3. [NEW MATERIAL] RESPONSE TO PRICE INQUIRIES. --
Upon request, regardless of whether in person, in writing or by
telephone, a pharmacist or pharmacy licensed in the state shall

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1 provide the current retail selling price of a drug dispensed by
2 the licensee to consumers with no health insurance prescription
3 drug benefit. If the request is for a brand-name drug and a
4 generic drug, multiple-source drug or drug with therapeutic
5 equivalence is available for the brand-name drug at that place
6 of business, the price of the generic drug, multiple-source
7 drug or drug with therapeutic equivalence shall also be
8 provided.

9 Section 4. Section 61-11-6 NMSA 1978 (being Laws 1969,
10 Chapter 29, Section 5, as amended) is amended to read:

11 "61-11-6. POWERS AND DUTIES OF BOARD. --

12 A. The board shall:

13 (1) adopt, amend or repeal rules [~~and~~
14 ~~regulations~~] necessary to carry out the provisions of the
15 Pharmacy Act in accordance with the provisions of the Uniform
16 Licensing Act;

17 (2) provide for examinations of applicants for
18 licensure as pharmacists;

19 (3) provide for the issuance and renewal of
20 licenses for pharmacists;

21 (4) require and establish criteria for
22 continuing education as a condition of renewal of licensure for
23 pharmacists;

24 (5) provide for the issuance and renewal of
25 licenses for pharmacist interns and for their training.

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1 supervision and discipline;

2 (6) provide for the licensing of retail
3 pharmacies, nonresident pharmacies, wholesale drug
4 distributors, drug manufacturers, hospital pharmacies, nursing
5 home drug facilities, industrial and public health clinics and
6 all places where dangerous drugs are stored, distributed,
7 dispensed or administered and provide for the inspection of the
8 facilities and activities;

9 (7) enforce the provisions of all laws of the
10 state pertaining to the practice of pharmacy and the
11 manufacture, production, sale or distribution of drugs or
12 cosmetics and their standards of strength and purity;

13 (8) conduct hearings upon charges relating to
14 the discipline of a registrant or licensee or the denial,
15 suspension or revocation of a registration or a license in
16 accordance with the Uniform Licensing Act;

17 (9) cause the prosecution of any person
18 violating the Pharmacy Act, the New Mexico Drug, Device and
19 Cosmetic Act or the Controlled Substances Act;

20 (10) keep a record of all proceedings of the
21 board;

22 (11) make an annual report to the governor;

23 (12) appoint and employ, in the board's
24 discretion, a qualified person who is not a member of the board
25 to serve as executive director and define ~~his~~ the executive

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1 director's duties and responsibilities; except that the power
2 to deny, revoke or suspend any license or registration
3 authorized by the Pharmacy Act shall not be delegated by the
4 board;

5 (13) appoint and employ inspectors necessary
6 to enforce the provisions of all acts under the administration
7 of the board, which inspectors shall be pharmacists and have
8 all the powers and duties of peace officers;

9 (14) provide for other qualified employees
10 necessary to carry out the provisions of the Pharmacy Act;

11 (15) have the authority to employ a competent
12 attorney to give advice and counsel in regard to any matter
13 connected with the duties of the board, to represent the board
14 in any legal proceedings and to aid in the enforcement of the
15 laws in relation to the pharmacy profession and to fix the
16 compensation to be paid to the attorney; provided, however,
17 that the attorney shall be compensated from the money of the
18 board, including that provided for in Section 61-11-19 NMSA
19 1978;

20 (16) register and regulate qualifications,
21 training and permissible activities of pharmacy technicians;

22 (17) provide a registry of all persons
23 licensed as pharmacists or pharmacist interns in the state;

24 (18) adopt rules [~~and regulations~~] that
25 prescribe the activities and duties of pharmacy owners and

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1 pharmacists in the provision of pharmaceutical care, drug
2 regimen review and patient counseling in each practice setting;
3 [~~and~~]

4 (19) adopt, after approval by the New Mexico
5 medical board [~~of medical examiners~~] and the board of nursing,
6 rules and protocols for the prescribing of dangerous drug
7 therapy, including vaccines and immunizations, and the
8 appropriate notification of the primary or appropriate
9 physician of the person receiving the dangerous drug therapy;
10 and

11 (20) adopt rules ensuring that pharmacists and
12 pharmacies comply with the requirements of the Drug Pricing
13 Disclosure Act mandating provision of price information to
14 consumers upon request.

15 B. The board may:

16 (1) delegate its authority to the executive
17 director to issue temporary licenses as provided in Section
18 61-11-14 NMSA 1978; and

19 (2) provide by [~~regulation~~] rule for the
20 electronic transmission of prescriptions. "