SENATE BILL 378

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

INTRODUCED BY

Dede Feldman

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

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

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

A. The board shall:

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

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

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

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

(5) provide for the issuance and renewal of
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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pharmacists in the provision of pharmaceutical care, drug

regimen review and patient counseling in each practice setting;

[and]

(19) adopt, after approval by the New Mexico

medical board [of medical examiners] and the board of nursing,

rules and protocols for the prescribing of dangerous drug

therapy, including vaccines and immunizations, and the

appropriate notification of the primary or appropriate

physician of the person receiving the dangerous drug therapy;

and

(20) adopt rules ensuring that pharmacists and

pharmacies comply with the requirements of the Drug Pricing

Disclosure Act mandating provision of price information to

consumers upon request.

B. The board may:

(1) delegate its authority to the executive

director to issue temporary licenses as provided in Section

61-11-14 NMSA 1978; and

(2) provide by [regulation] rule for the

electronic transmission of prescriptions."

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