

1 SENATE BILL 34

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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9  
10 AN ACT

11 RELATING TO PRESCRIPTION DRUGS; EXPANDING THE PRESCRIPTION DRUG  
12 DONATION PROGRAM TO ALLOW MORE DONORS AND RECIPIENTS TO  
13 PARTICIPATE IN THE DONATION, COLLECTION AND REDISTRIBUTION OF  
14 UNUSED PRESCRIPTION DRUGS.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 26-1-3.2 NMSA 1978 (being Laws 2011,  
18 Chapter 119, Section 1) is amended to read:

19 "26-1-3.2. PRESCRIPTION DRUG DONATION.--

20 A. As used in this section:

21 [~~(1) "clinic" means a facility licensed~~  
22 ~~pursuant to Section 61-11-14 NMSA 1978 in which one or more~~  
23 ~~licensed practitioners diagnose and treat patients and in which~~  
24 ~~drugs are stored, dispensed or administered for the diagnosis~~  
25 ~~and treatment of the facility's patients; provided that~~

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1 ~~"clinic" does not include the privately owned practice of a~~  
2 ~~licensed practitioner or group of licensed practitioners exempt~~  
3 ~~under Section 61-11-22 NMSA 1978;~~

4 ~~(2)]~~ (1) "donor" means ~~[an individual]~~ a  
5 person who donates unused prescription drugs to ~~[a clinic or a~~  
6 ~~participating practitioner for the purpose of redistribution to~~  
7 ~~established patients of that clinic or practitioner]~~ an  
8 eligible recipient for the purpose of redistribution to  
9 patients;

10 ~~[(3) "participating practitioner" means a~~  
11 ~~licensed practitioner who is authorized to prescribe drugs and~~  
12 ~~who registers with the board, and is subject to rules~~  
13 ~~promulgated by the board, to participate in the collection of~~  
14 ~~donated drugs, prescribed for use by established patients of~~  
15 ~~that practitioner and donated for the purpose of redistribution~~  
16 ~~to established patients of that practitioner]~~ (2) "eligible  
17 recipient" means a person who registers with the board to  
18 participate in the collection of donated drugs and is:

19 (a) licensed pursuant to Section  
20 61-11-14 NMSA 1978 to receive and distribute prescription  
21 drugs;

22 (b) a health care facility licensed by  
23 the department of health pursuant to the Public Health Act; or

24 (c) a practitioner licensed to prescribe  
25 prescription drugs;

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1                    [~~(4)~~ "recipient"] (3) "patient" means an  
2 individual who voluntarily receives donated prescription drugs;  
3 and

4                    [~~(5)~~] (4) "tamper-evident" means a device or  
5 process that makes unauthorized access to protected  
6 pharmaceutical packaging easily detected.

7                    B. The board shall adopt and promulgate rules for  
8 the donation of unused prescription drugs. Any person,  
9 including persons from other states, may [be donated] donate  
10 unexpired and unused prescription drugs to [a clinic or a  
11 participating practitioner, and a clinic or a participating  
12 practitioner] an eligible recipient, and an eligible recipient  
13 may accept and redistribute the donated prescription drugs in  
14 accordance with rules promulgated by the board. Donated  
15 prescription drugs shall only be redistributed to a patient if  
16 the drugs will not expire before the patient is able to  
17 completely use the drugs, based on the directions for use given  
18 by the patient's prescribing health care professional.

19                    C. The board shall promulgate rules to establish:

20                    (1) procedures to allow the donation and  
21 redistribution of certain prescription drugs, including  
22 refrigerated drugs, that:

23                    (a) ensure that the redistribution  
24 process is consistent with public health and safety standards;  
25 and

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1 (b) exclude controlled substances;  
2 (2) standards and procedures for accepting,  
3 storing, labeling and redistributing donated prescription  
4 drugs;

5 (3) standards and procedures for inspecting  
6 donated prescription drugs to determine that the packaging is  
7 tamper-evident and that the donated prescription drugs are  
8 unadulterated, safe and suitable for redistribution;

9 (4) a form to be signed by the ~~[recipient]~~  
10 patient specifying:

11 (a) knowledge that the donor is not a  
12 pharmacist and took reasonable care of the donated prescription  
13 drug;

14 (b) knowledge that the ~~[donor is known~~  
15 ~~to the clinic or the participating practitioner]~~ donated  
16 prescription drugs have been inspected by a health care  
17 professional prior to being dispensed and that there is no  
18 reason to believe that the donated prescription drug was  
19 improperly handled or stored;

20 (c) that any person who exercises  
21 reasonable care in donating, accepting or redistributing  
22 pursuant to this section shall be immune from civil or criminal  
23 liability or professional disciplinary action of any kind for  
24 any related injury, death or loss; and

25 (d) that the immunity provided by this

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1 section shall not decrease or increase the civil or criminal  
2 liability of a drug manufacturer, distributor or dispenser that  
3 would have existed but for the donation;

4 (5) ~~[a form to be signed]~~ information required  
5 to be provided by the donor verifying that:

6 (a) the donated prescription drug has  
7 been properly stored and the container has not been opened or  
8 tampered with;

9 (b) the donated prescription drug has  
10 not been adulterated or misbranded; and

11 (c) the donor is voluntarily donating  
12 the prescription drug;

13 (6) a handling fee not to exceed ~~[twenty~~  
14 ~~dollars (\$20.00)]~~ the reasonable costs of participating in the  
15 collection of donated prescription drugs that may be charged to  
16 the ~~[recipient]~~ patient by the ~~[clinic or the participating~~  
17 ~~practitioner]~~ eligible recipient to cover the costs of  
18 inspecting, storing, labeling and redistributing the donated  
19 prescription drug; and

20 (7) any other standards deemed necessary by  
21 the board.

22 D. The board shall maintain and publish a current  
23 listing of ~~[clinics and participating practitioners]~~ eligible  
24 recipients.

25 E. Before redistributing donated prescription

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1 drugs, the ~~[clinic or the participating practitioner]~~ eligible  
2 recipient shall:

3 (1) comply with all applicable federal laws  
4 and the laws of the state that deal with the inspection,  
5 storage, labeling and redistribution of donated prescription  
6 drugs; and

7 (2) examine the donated prescription drug to  
8 determine that it has not been adulterated or misbranded and  
9 certify that the drug has been stored in compliance with the  
10 requirements of the product label.

11 F. Any person who exercises reasonable care in  
12 donating, accepting or redistributing prescription drugs  
13 pursuant to this section shall be immune from civil or criminal  
14 liability or professional disciplinary action of any kind for  
15 any related injury, death or loss.

16 G. The immunity provided by this section shall not  
17 decrease or increase the civil or criminal liability of a drug  
18 manufacturer, distributor or dispenser that would have existed  
19 but for the donation.

20 H. A manufacturer shall not be liable for failure  
21 to transfer or communicate product consumer information or the  
22 expiration date of the donated prescription drug pursuant to  
23 this section.

24 I. This section does not restrict the authority of  
25 an appropriate governmental agency to regulate or ban the use

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of any prescription drugs."

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