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SENATE BILL 122

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Elizabeth "Liz" Stefanics and Joanne J. Ferrary
and Martin Hickey

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

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

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

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

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

A. As used in this section:

~~[(1) "clinic" means a facility licensed
pursuant to Section 61-11-14 NMSA 1978 in which one or more
licensed practitioners diagnose and treat patients and in which
drugs are stored, dispensed or administered for the diagnosis
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;~~

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

16 (2) "eligible recipient" means a person who
17 registers with the board to participate in the collection of
18 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 health care authority pursuant to the Health Care Code; 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; and
2 (c) allow in-state and out-of-state
3 pharmacies that are experienced in managing donated
4 prescription drugs to distribute donated prescription drugs to
5 patients, either at a physical pharmacy location or through a
6 mail-order pharmacy;

7 (2) standards and procedures for accepting,
8 storing, labeling and redistributing donated prescription
9 drugs;

10 (3) standards and procedures for inspecting
11 donated prescription drugs to determine that the packaging is
12 tamper-evident and that the donated prescription drugs are
13 unadulterated, safe and suitable for redistribution;

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

16 (a) knowledge that the donor [~~is not a~~
17 ~~pharmacist and~~] took reasonable care of the donated
18 prescription drug;

19 (b) knowledge that the [~~donor is known~~
20 ~~to the clinic or the participating practitioner~~] donated
21 prescription drugs have been inspected prior to being dispensed
22 and that there is no reason to believe that the donated
23 prescription drug was improperly handled or stored;

24 (c) that any person who exercises
25 reasonable care in donating, accepting or redistributing

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1 pursuant to this section shall be immune from civil or criminal
2 liability or professional disciplinary action of any kind for
3 any related injury, death or loss; and

4 (d) that the immunity provided by this
5 section shall not decrease or increase the civil or criminal
6 liability of a drug manufacturer, distributor or dispenser that
7 would have existed but for the donation;

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

10 (a) the donated prescription drug has
11 been properly stored and the container has not been opened or
12 tampered with;

13 (b) the donated prescription drug has
14 not been adulterated or misbranded; and

15 (c) the donor is voluntarily donating
16 the prescription drug;

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

24 (7) any other standards deemed necessary by
25 the board.

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1 D. The board shall maintain and publish a current
2 listing of [~~clinics and participating practitioners~~] eligible
3 recipients.

4 E. Before redistributing donated prescription
5 drugs, the [~~clinic or the participating practitioner~~] eligible
6 recipient shall:

7 (1) comply with all applicable federal laws
8 and the laws of the state that deal with the inspection,
9 storage, labeling and redistribution of donated prescription
10 drugs; and

11 (2) examine the donated prescription drug to
12 determine that it has not been adulterated or misbranded and
13 certify that the drug has been stored in compliance with the
14 requirements of the product label.

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

20 G. The immunity provided by this section shall not
21 decrease or increase the civil or criminal liability of a drug
22 manufacturer, distributor or dispenser that would have existed
23 but for the donation.

24 H. A manufacturer shall not be liable for failure
25 to transfer or communicate product consumer information or the

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1 expiration date of the donated prescription drug pursuant to
2 this section.

3 I. This section does not restrict the authority of
4 an appropriate governmental agency to regulate or ban the use
5 of any prescription drugs."

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