

1 AN ACT
2 RELATING TO PRESCRIPTION DRUGS; EXPANDING THE PRESCRIPTION
3 DRUG DONATION PROGRAM TO ALLOW MORE DONORS AND RECIPIENTS TO
4 PARTICIPATE IN THE DONATION, COLLECTION AND REDISTRIBUTION OF
5 UNUSED PRESCRIPTION DRUGS.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

10 "26-1-3.2. PRESCRIPTION DRUG DONATION.--

11 A. As used in this section:

12 (1) "donor" means a person who donates
13 unused prescription drugs to an eligible recipient for the
14 purpose of redistribution to patients;

15 (2) "eligible recipient" means a person who
16 registers with the board to participate in the collection of
17 donated drugs and is:

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

21 (b) a health care facility licensed by
22 the health care authority pursuant to the Health Care Code;
23 or

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

1 (3) "patient" means an individual who
2 voluntarily receives donated prescription drugs; and

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

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

17 C. The board shall promulgate rules to establish:

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

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

24 (b) exclude controlled substances; and

25 (c) allow in-state and out-of-state

1 pharmacies that are experienced in managing donated
2 prescription drugs to distribute donated prescription drugs
3 to patients, either at a physical pharmacy location or
4 through a mail-order pharmacy;

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

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

12 (4) a form to be signed by the patient
13 specifying:

14 (a) knowledge that the donor took
15 reasonable care of the donated prescription drug;

16 (b) knowledge that the donated
17 prescription drugs have been inspected prior to being
18 dispensed and that there is no reason to believe that the
19 donated prescription drug was 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
23 criminal liability or professional disciplinary action of any
24 kind for any related injury, death or loss; and

25 (d) that the immunity provided by this

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

4 (5) information required to be provided by
5 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 the
14 reasonable costs of participating in the collection of
15 donated prescription drugs that may be charged to the patient
16 by the eligible recipient to cover the costs of inspecting,
17 storing, labeling and redistributing the donated prescription
18 drug; and

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

21 D. The board shall maintain and publish a current
22 listing of eligible recipients.

23 E. Before redistributing donated prescription
24 drugs, the eligible recipient shall:

25 (1) comply with all applicable federal laws

1 and the laws of the state that deal with the inspection,
2 storage, labeling and redistribution of donated prescription
3 drugs; and

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

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

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

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

21 I. This section does not restrict the authority of
22 an appropriate governmental agency to regulate or ban the use
23 of any prescription drugs."
