HOUSE BILL 84

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

GARY K. KING

AN ACT

RELATING TO LICENSURE; AMENDING AND ENACTING SECTIONS OF THE PHARMACY ACT.

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

Section 1. Section 61-11-1 NMSA 1978 (being Laws 1969, Chapter 29, Section 1) is amended to read:

"61-11-1. SHORT TITLE.--[~~This act~~] Chapter 61, Article 11 NMSA 1978 may be cited as the "Pharmacy Act"."

Section 2. A new section of the Pharmacy Act is enacted to read:

"[NEW MATERIAL] LEGISLATIVE FINDINGS--PURPOSE OF ACT.--

A. The legislature finds that the practice of pharmacy in New Mexico is a professional practice affecting the public health, safety and welfare and is subject to regulation and control in the public interest. The legislature finds

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further that it is a matter of public interest and concern that the practice of pharmacy as defined in the Pharmacy Act merit and receive the confidence of the public, and that only qualified persons be permitted to engage in the practice of pharmacy so that the quality of drugs and related devices distributed in New Mexico is ensured.

B. The purpose of the Pharmacy Act is to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy, including the licensure of pharmacists and pharmacist interns and registration of pharmacy technicians; the licensure, control and regulation of all sites or persons, in or out of state, who distribute, manufacture or sell drugs or devices used in the dispensing and administration of drugs in New Mexico; and the regulation and control of such other materials as may be used in the diagnosis, treatment and prevention of injury, illness or disease of a patient or other person."

Section 3. Section 61-11-2 NMSA 1978 (being Laws 1969, Chapter 29, Section 2, as amended) is amended to read:

"61-11-2. DEFINITIONS.--As used in the Pharmacy Act:

A. "administer" means [~~giving a unit dose of medication to a patient as a result of an order of a licensed practitioner~~] the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion

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or any other means;

B. "board" means the board of pharmacy;

C. [~~"compound"~~] "compounding" means [~~taking two or more measured ingredients and fabricating them into a single preparation, usually referred to as a dosage form, except for preparations that involve repetitive tasks that do not require the professional judgment of a licensed pharmacist; provided that such preparations will be defined in regulations adopted by the board~~] preparing, mixing, assembling, packaging or labeling a drug or device as the result of a licensed practitioner's prescription or initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice or for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing. "Compounding" also includes preparing drugs or devices in anticipation of a prescription based on routine, regularly observed prescribing patterns;

D. "confidential information" means information in the patient's records accessed, maintained by or transmitted to the pharmacist or communicated to the patient as part of patient counseling that is privileged and may be released only to the patient or, as the patient directs, to those licensed practitioners and other authorized health care professionals when, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; and to

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such other persons authorized by law to receive such information, regardless of whether such information is on paper, preserved on microfilm or stored on electronic media;

[~~D.~~] E. "consulting pharmacist" means a pharmacist whose services are engaged on a routine [~~part-time~~] basis by a hospital or other health care facility

[~~(1) to assist in drawing up correct procedures, rules and regulations for the distribution of drugs;~~

~~(2) to assume the overall responsibility for the system of control and distribution of drugs;~~

~~(3) to see that a designated person has the responsibility of day-to-day operation of the hospital pharmacy or drug room; and~~

~~(4) to visit the hospital pharmacy or drug room on a regularly scheduled basis in the course of his duties~~] and who is responsible for the distribution, receipt and storage of drugs according to the state and federal regulations;

F. "custodial care facility" means a nursing home, retirement care, mental care or other facility that provides extended health care;

[~~E.~~] G. "dangerous drug" means a drug that is [~~determined by law to be unsafe for self-medication and that is enumerated in the New Mexico Drug, Device and Cosmetic Act~~] required by an applicable federal or state law or rule to be dispensed pursuant to a prescription or is restricted to use by

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licensed practitioners; or that is required by federal law to be labeled with either of the following statements prior to being dispensed or delivered:

(1) "caution: federal law prohibits dispensing without a prescription"; or

(2) "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian";

H. "device" means an instrument, apparatus, implement, machine, contrivance, implant or similar or related article, including a component part or accessory, that is required by federal law to bear the label, "caution: federal or state law requires dispensing by or on the order of a physician";

[~~F.~~] I. "dispense" means [~~issuing to a patient or a person acting on his behalf one or more unit doses of medication and may result from compounding or from repackaging from a bulk or original container~~] the interpretation, evaluation and implementation of a prescription, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient;

J. "distribute" means the delivery of a drug or device other than by administering or dispensing;

[~~G.~~] K. "drug" means:

(1) [~~articles~~] an article recognized [~~in the~~

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~~United States pharmacopoeia, homeopathic pharmacopoeia or national formulary or any supplement to any of them~~] as a drug in any official compendium or its supplement that is designated from time to time by the board for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals;

(2) [~~articles~~] an article intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in [~~man or animal~~] humans or other animals;

(3) [~~articles~~] an article, other than food, that [~~affect~~] affects the structure or any function of the body of [~~man or animal~~] humans or other animals; and

(4) [~~articles~~] an article intended for use as a component of an article described in Paragraph (1), (2) or (3) of this subsection; [~~but does not include instruments, apparatus or contrivances, including their components, parts or accessories, known as devices, intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in man or animal or that affect the structure or any function of the body of man or animal;~~

~~H. "drug room" means that area provided only for the proper and safe storage, preservation and control of drugs;~~]

L. "drug regimen review" includes an evaluation of a prescription and patient record for:

(1) known allergies;

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(2) rational therapy contraindications;

(3) reasonable dose and route of administration;

(4) reasonable directions for use;

(5) duplication of therapy;

(6) drug-drug interactions;

(7) adverse drug reactions; and

(8) proper use and optimum therapeutic outcomes;

M. "electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment;

[~~I.~~] N. "hospital" means an institution [~~for the reception and care of the ill or infirm~~] that is licensed as a hospital by the department of health;

[~~J. "hospital pharmacy" means a pharmacy maintained in a hospital;~~]

O. "labeling" means the process of preparing and affixing a label to any drug container exclusive of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged prescription drug or device; and which label includes all information required by federal or state law or regulations adopted pursuant to federal or state law;

[~~K.~~] P. "licensed practitioner" means a person

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engaged in a profession licensed by any state, territory or possession of the United States who, within the limits of his license, may lawfully prescribe, dispense or administer drugs for the treatment of a patient's condition;

Q. "manufacturing" means the production, preparation, propagation, conversion or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes packaging or repackaging, labeling or relabeling and the promotion and marketing of such drugs or devices. "Manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, licensed practitioners or other persons;

[~~L.~~] R. "nonprescription drugs" means non-narcotic medicines or drugs that may be sold without a prescription and are prepackaged for use by a consumer and are labeled in accordance with the laws and regulations of the state and federal governments;

[~~M.~~] S. "nonresident pharmacy" means any pharmacy located outside New Mexico that ships, mails or delivers, in any manner, drugs into New Mexico;

[~~N.~~] T. "patient counseling" means the oral communication [~~with~~] by the pharmacist of information to a patient or his agent or caregiver regarding [~~dispensing of a~~

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[~~prescription~~] proper use of a drug or [~~drugs~~] device;

[~~O.~~] U. "person" means an individual, corporation, partnership, [~~or~~] association [~~and, when the context requires, includes a hospital, nursing home or clinic~~] or other legal entity;

V. "pharmaceutical care" means the provision of drug therapy and other patient care services intended to achieve definite outcomes that improve a patient's quality of life, including identifying potential and actual drug-related problems, resolving actual drug-related problems and preventing potential drug-related problems;

[~~P.~~] W. "pharmacist" means a person who [~~holds a current license~~] is licensed as a pharmacist in this state;

X. "pharmacist in charge" means a pharmacist who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs and who is personally in full and actual charge of the pharmacy and its personnel;

[~~Q.~~] Y. "pharmacy" means [~~any store, laboratory or~~] a licensed place of business where drugs are [~~sold at retail or where physicians' prescriptions are compounded or~~] compounded or dispensed [~~or both, but does not include the place used by a drug manufacturer or wholesale drug distributor or the place of business of a nonregistered person selling non-narcotic proprietary preparations or remedies~~] and pharmaceutical care is

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provided;

[~~R.~~] Z. "pharmacist intern" means a person [~~registered~~] licensed by the board to train under a pharmacist [~~in accordance with regulations of the board and who is entitled to compound and dispense drugs and poisons under the personal supervision of a pharmacist~~];

AA. "pharmacy technician" means a person who is registered to perform repetitive tasks not requiring the professional judgment of a pharmacist;

[~~S.~~] BB. "practice of pharmacy" means [~~engaging in the preparation, compounding and dispensing of drugs and includes the identification, preservation, proper and safe storage, selection, combination, analysis, standardization, labeling, manufacturing, re-packaging and distribution of drugs, the reconstitution or preparation of intravenous admixtures, the proper maintenance of any records required by state or federal law and counseling with respect to pharmaceutical practices~~] the interpretation, evaluation and implementation of a lawful order of a licensed practitioner; the dispensing of prescriptions; the participation in drug and device selection, drug administration, drug regimen reviews and drug or drug-related research; the provision of patient counseling and pharmaceutical care; the responsibility for compounding and labeling of drugs and devices; the proper and safe storage of drugs and devices; and the maintenance of proper records;

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[~~T.~~] CC. "prescription" means an order given individually for the person for whom prescribed, either directly from a licensed practitioner or his agent to the pharmacist, including electronic transmission or indirectly by means of a written order signed by the prescriber, that bears the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue;

[~~U. "supportive personnel" means persons who are not pharmacists or pharmacist interns, who, under the supervision of a licensed pharmacist, perform repetitive tasks not requiring the professional judgment of a pharmacist in accordance with rules and regulations adopted by the board; and~~]

DD. "significant adverse drug reaction" means a drug-related incident that may result in harm, injury or death to the patient; and

[~~V.~~] EE. "wholesale drug distributor" means a person engaged in the wholesale distribution of prescription drugs, including manufacturers, repackers, own-label distributors, private-label distributors, jobbers, brokers, manufacturer's warehouses, distributor's warehouses, chain drug warehouses, wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distribution."

Section 4. Section 61-11-4 NMSA 1978 (being Laws 1969, Chapter 29, Section 3, as amended) is amended to read:

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"61-11-4. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--VACANCIES--REMOVAL.--

A. There is created the "board of pharmacy". The board consists of nine members, each of whom shall be a citizen of the United States and a resident of New Mexico.

B. Five members shall be pharmacists appointed by the governor for staggered terms of five years each from lists submitted to the governor by the New Mexico pharmaceutical association, which lists contain the names of two pharmacists residing in each of the five pharmacy districts. One of the pharmacist members shall be appointed for a term ending July 1, 1970 and one pharmacist member shall be appointed for a term ending on July 1 of each of the following four years. Thereafter, appointments of pharmacist members shall be made for five years or less each and made in such a manner that the term of one pharmacist member expires on July 1 of each year. [~~Not more than~~] One pharmacist member shall [~~come from a~~] be appointed from each pharmacy district. Each pharmacist member of the board shall have been actively engaged in the pharmaceutical profession in this state for at least three years immediately prior to his appointment and shall have had a minimum of eight years of practical experience as a pharmacist. A vacancy shall be filled by appointment by the governor for the unexpired term from lists submitted by the New Mexico pharmaceutical association to the governor. Pharmacist members

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shall reside in the district from which they are appointed.

C. Three members of the board shall be appointed by the governor to represent the public. The public members of the board shall not have been licensed as pharmacists or have any significant financial interest, whether direct or indirect, in the [~~occupation~~] profession regulated. A vacancy in [~~the~~] a public [~~members' terms~~] member's term shall be filled by appointment by the governor for the unexpired term. Initial appointments of public members shall be made for staggered terms of five years or less each and made in such a manner that not more than two [~~board~~] public members' terms shall expire on July 1 of each year.

D. One member of the board shall be a [~~hospital~~] pharmacist [~~selected~~] appointed at large from a list submitted to the governor by the New Mexico society of [~~hospital~~] health systems pharmacists. [~~On July 1, 1985, the governor shall appoint a hospital pharmacist member to the board for a term expiring July 1, 1990 and successors to the hospital pharmacist~~] The member shall be appointed by the governor to [~~terms~~] a term of five years. A vacancy in the [~~hospital pharmacist member~~] member's term shall be filled by appointment by the governor for the unexpired term from a list submitted to the governor by the New Mexico society of [~~hospital~~] health systems pharmacists.

E. There are created five pharmacy districts as follows:

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(1) northeast district, which shall be composed of the counties of Colfax, Guadalupe, Harding, Los Alamos, Mora, Quay, Rio Arriba, Sandoval, San Miguel, Santa Fe, Taos, Torrance and Union;

(2) northwest district, which shall be composed of the counties of McKinley, San Juan, Valencia and Cibola;

(3) central district, which shall be composed of the county of Bernalillo;

(4) southeast district, which shall be composed of the counties of Chaves, Curry, DeBaca, Eddy, Lea and Roosevelt; and

(5) southwest district, which shall be composed of the counties of Catron, Dona Ana, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra and Socorro.

F. No board member shall serve more than two full terms, consecutive or otherwise.

G. Any board member failing to attend three consecutive regular meetings is automatically removed as a member of the board.

H. The governor may remove any member of the board for neglect of any duty required by law, for incompetency or for unprofessional conduct and shall remove any board member who violates any provision of the Pharmacy Act.

[~~I. If a vacancy occurs on the board for any reason, the secretary of the board shall immediately notify the~~

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~~governor, the board members and any generally recognized association or organization of pharmacists of the reason for its occurrence and the action taken by the board, so as to expedite the appointment of a new board member.~~]"

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

"61-11-5. BOARD MEETINGS--QUORUM--OFFICERS--BONDS--EXPENSES.--

A. The board shall annually elect a chairman, vice chairman and secretary-treasurer from its membership.

B. The board shall meet at least once every three months. Special meetings may be called by the chairman and shall be called upon the written request of two or more members of the board. Notification of special meetings shall be made by certified mail unless the notice is waived by the entire board and noted in the minutes. Notice of all regular meetings shall be made by regular mail at least ten days prior to the meeting, and copies of the minutes of all meetings shall be mailed to each board member within forty-five days after any meeting.

C. A majority of the board constitutes a quorum.

[~~D. The executive officer and any member or employee of the board who handles money or who certifies the receipt or disbursement of money received by the board shall, within thirty days after appointment, execute a bond in a sum set by the board, conditioned on the faithful performance of the duties of~~

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~~the office and an accounting for all funds coming into his hands. The bonds shall be signed by a surety company authorized to do business in this state and be filed with and approved by the board.~~

~~E.~~] D. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance."

Section 6. 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:

[~~A.~~] (1) adopt, [~~regularly review and revise~~] amend or repeal rules and regulations necessary to carry out the provisions of the Pharmacy Act [~~after hearings open to the public~~] in accordance with the provisions of the Uniform Licensing Act;

[~~B.~~] (2) provide for [~~at least two~~] examinations [~~a year~~] of applicants for [~~registration~~] licensure as pharmacists;

[~~C.~~] (3) provide for the [~~registration and the annual~~] issuance and renewal of licenses for pharmacists;

[~~D.~~] (4) require and establish criteria for continuing education as a condition of annual renewal of [~~annual~~] licensure for pharmacists;

[~~E.~~] (5) provide for the [~~registration of~~]

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issuance and annual renewal of licenses for pharmacist interns [~~their certification, annual renewal of certification~~] and for their training, supervision and discipline;

[~~F.~~] (6) provide for the licensing of retail pharmacies, nonresident pharmacies, wholesale drug distributors, drug manufacturers, hospital pharmacies [~~and the drug rooms of hospitals~~], nursing home drug facilities, industrial and public health clinics and all places where dangerous drugs are stored, distributed, dispensed or administered and provide for the inspection of [~~their~~] the facilities and activities;

[~~G.~~] (7) enforce the provisions of all laws of the state pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs or cosmetics [~~or poisons~~] and their standards of strength and purity;

[~~H.~~] (8) conduct hearings upon charges relating to the discipline of a registrant or licensee or the denial, suspension or revocation of a [~~certificate of~~] registration or a license in accordance with the Uniform Licensing Act;

[~~I. provide for the institution of proceedings concerning minor violations of the Pharmacy Act whenever the board believes that the public interest will be adequately served by a suitable written notice or warning or by a suspension of registration or licensure for a period not to exceed thirty days;~~

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~~J.~~] (9) cause the prosecution of any person violating the Pharmacy Act, the New Mexico Drug, Device and Cosmetic Act or the Controlled Substances Act;

[~~K.~~] (10) keep a record of all proceedings of the board;

[~~L.~~] (11) make an annual report to the governor;

[~~M.~~] (12) appoint and employ, in the board's discretion, a qualified person who is not a member of the board to serve as executive [~~officer to the board~~] director and define his duties and responsibilities; except that the power to [~~grant~~] deny, revoke or suspend any license or registration authorized by the Pharmacy Act shall not be delegated by the board;

[~~N.~~] (13) appoint and employ inspectors necessary to enforce the provisions of all acts under the administration of the board, which inspectors shall be pharmacists and have all the powers and duties of peace officers;

[~~O.~~] (14) provide for other qualified employees necessary to carry out the provisions of the Pharmacy Act;

[~~P.~~] (15) have the authority to employ a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of

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the laws in relation to the pharmacy profession and to fix the compensation to be paid to the attorney; provided, however, that the attorney shall be compensated from the [~~funds~~] money of the board, including [~~those~~] that provided for in Section 61-11-19 NMSA 1978;

[~~Q. adopt, regularly review and revise rules and regulations regarding the use of supportive personnel, including pharmacists' supervision, duties and responsibilities in relation to supportive personnel and requirements for training of supportive personnel, including on-the-job training; and~~]

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

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

[~~R.~~] (18) adopt rules and regulations that [~~define requirements for~~] prescribe the activities and duties of pharmacy owners and pharmacists in the provision of pharmaceutical care, drug regimen review and patient counseling in each practice setting.

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 for the electronic transmission of prescriptions."

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Section 7. Section 61-11-7 NMSA 1978 (being Laws 1969, Chapter 29, Section 6, as amended) is amended to read:

"61-11-7. DRUG DISPENSATION--LIMITATIONS.--

A. The Pharmacy Act does not prohibit:

(1) any hospital or state or county institution or clinic without the services of a staff pharmacist from acquiring and having in its possession any dangerous drug for the purpose of dispensing [~~provided~~] if it is in a dosage form suitable for dispensing and [~~provided that~~] if the hospital, institution or clinic employs a consulting pharmacist;

(2) if the consulting pharmacist is not available, the withdrawal of any drug from stock by a licensed professional nurse on the order of a licensed practitioner in such amount as needed for administering to and treatment of his patient;

(3) the extemporaneous preparation by a licensed professional nurse on the order of a licensed practitioner of simple solutions for injection when the solution may be prepared from a quantity of drug that has been prepared previously by a pharmaceutical manufacturer or pharmacist and obtained by the hospital, institution or clinic in a form suitable for the preparation of the solution;

(4) the sale of non-narcotic, nonpoisonous or nondangerous nonprescription medicines or preparations by nonregistered persons or unlicensed stores when sold in their

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original containers;

(5) the sale of drugs intended for veterinary use; provided that if such drugs bear the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian", the drug may be sold or distributed only as provided in Subsection A of Section 26-1-15 NMSA 1978, by a person possessing a license issued by the board [~~under~~] pursuant to Subsection B of Section 61-11-14 NMSA 1978;

(6) the sale to or possession or administration of topical ocular pharmaceutical agents by licensed optometrists who have been certified by the board of optometry for the use of such agents;

(7) the sale to or possession or administration of oral pharmaceutical agents as authorized in Subsection A of Section 61-2-10.2 NMSA 1978 by licensed optometrists who have been certified by the board of optometry for the use of such agents; [~~or~~]

(8) [~~supportive personnel~~] pharmacy technicians from providing assistance to pharmacists; or

(9) a pharmacist from exercising his professional judgment in refilling a prescription for a prescription drug, unless prohibited by another state or federal law, without the authorization of the prescribing licensed practitioner, if:

(a) failure to refill the prescription

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might result in an interruption of a therapeutic regimen or create patient suffering;

(b) the pharmacist is unable to contact the licensed practitioner after reasonable effort;

(c) the quantity of prescription drug dispensed does not exceed a seventy-two-hour supply;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the licensed practitioner is required for future refills; and

(e) the pharmacist informs the licensed practitioner of the emergency refill at the earliest reasonable time.

B. All prescriptions requiring the preparation of dosage forms or amounts of dangerous drugs not available in the stock of a hospital, institution or clinic or a prescription [~~necessitating~~] requiring compounding shall be either compounded or dispensed only by a pharmacist."

Section 8. Section 61-11-8 NMSA 1978 (being Laws 1969, Chapter 29, Section 7, as amended) is amended to read:

"61-11-8. DRUG RECORDS TO BE KEPT.--Records shall be kept by all [~~hospitals, institutions or clinics~~] persons licensed pursuant to the Pharmacy Act of all dangerous drugs, their receipt, withdrawal from stock and use or other disposal. The records shall be open to inspection by the board or its agents,

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and [~~both the pharmacist in charge and the hospital, institution or clinic~~] the licensee shall be responsible for the maintenance of the records in proper form."

Section 9. Section 61-11-9 NMSA 1978 (being Laws 1969, Chapter 29, Section 8, as amended) is amended to read:

"61-11-9. QUALIFICATIONS FOR [~~REGISTRATION~~] LICENSURE AS A PHARMACIST BY EXAMINATION.--

A. An applicant for [~~registration~~] licensure as a pharmacist by examination shall:

(1) have reached the age of majority and not be addicted to the use of drugs or [~~alcoholic liquors~~] alcohol;

(2) be a graduate of a school or college of pharmacy [~~accredited by the American council on pharmaceutical education~~] approved by the board;

(3) have not less than one year of experience under the direction of a pharmacist in accordance with the programs of supervised training established by regulation of the board;

(4) pass an examination [~~prepared and administered~~] approved by the board [~~which examination shall be based on the subjects and minimum grading standards as set forth in the bylaws of the national association of boards of pharmacy~~]; and

(5) pass an examination [~~prepared and administered~~] approved by the board, which examination shall be

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based on federal and state drug laws and regulations.

B. Any person who is a graduate of a foreign school of pharmacy may be eligible for licensure as a pharmacist upon successful completion of an equivalency examination program [~~and an examination on New Mexico laws and~~] approved by the board [~~regulations. The board shall adopt regulations that define the content of the examinations.~~

~~C. The board shall register an applicant and issue a~~].

C. The board shall [~~register an applicant and~~] issue a license when [~~his~~] the applicant's application has been filed with and approved by the board [~~he~~] and the applicant has paid the required fees and [~~he has passed the required examinations~~] has met the requirements of this section."

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

"61-11-10. RECIPROCAL [~~REGISTRATION~~] LICENSURE.--The board may issue a [~~certificate of registration~~] license, with or without examination, to a person who:

A. is [~~registered~~] licensed as a pharmacist by examination in another state [~~which~~] that under equivalent conditions will grant reciprocal [~~registration~~] licensure to persons [~~registered~~] licensed as pharmacists by examination in this state; and

B. produces evidence satisfactory to the board that

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he has the age, education, experience and qualifications required of applicants for [~~registration~~] licensure by examination under the provisions of the Pharmacy Act. Any person who was registered by examination in another state prior to May 20, 1940 is required to satisfy only those requirements in existence in this state at the time he was registered in the other state."

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

"61-11-11. PHARMACIST INTERN--QUALIFICATIONS FOR [~~REGISTRATION.--There is established under the board~~] LICENSURE.--The classification of pharmacist intern is established. An applicant for [~~registration~~] licensure as a pharmacist intern shall:

A. be not less than eighteen years of age and not be addicted to the use of drugs or alcohol;

B. have satisfactorily completed not less than thirty semester hours or the equivalent thereof in a school or college of pharmacy [~~accredited by the American council on pharmaceutical education~~] approved by the board; and

C. meet other requirements established by regulation of the board."

Section 12. A new section of the Pharmacy Act is enacted to read:

"[NEW MATERIAL] PHARMACY TECHNICIAN--QUALIFICATIONS--

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DUTIES.--

A. The classification of pharmacy technician is established. An applicant for registration as a pharmacy technician shall:

(1) be at least sixteen years of age and not addicted to drugs or alcohol;

(2) complete initial training as required by regulations of the board that includes on-the-job and related education commensurate with the tasks to be performed by the pharmacy technician; and

(3) if the potential duties of the pharmacy technician will include the preparation of sterile products, complete an additional one hundred hours of experiential training as required by regulations of the board.

B. Permissible activities for pharmacy technicians under the supervision of a pharmacist include:

(1) the preparation, mixing, assembling, packaging and labeling of medications;

(2) processing routine orders of stock supplies;

(3) preparation of sterile products; and

(4) filling of a prescription or medication order that entails counting, pouring, labeling or reconstituting medications.

C. The supervising pharmacist shall observe and

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direct the pharmacy technician to a sufficient degree to assure the accurate completion of the activities of the pharmacy technician and shall provide a final check of all aspects of the prepared product and document the final check before dispensing.

D. The supervising pharmacist shall be responsible for the tasks performed by the pharmacist technician and subject to discipline for failure to appropriately supervise the performance of the pharmacist technician."

Section 13. Section 61-11-12 NMSA 1978 (being Laws 1969, Chapter 29, Section 11, as amended) is amended to read:

"61-11-12. [~~REGISTRATION~~] LICENSE FEES.--

A. An applicant for [~~registration~~] licensure as a pharmacist or pharmacist intern or registration as a pharmacy technician shall pay the following fees, which fees shall not be returnable:

(1) for [~~registration~~] initial licensure as a pharmacist, [~~by examination~~] a fee set by the board not to exceed [~~two hundred dollars ($200)~~] four hundred dollars ($400); provided that if the applicant fails a portion of [~~the~~] an examination, reexamination is subject to the same fee as the first examination;

[~~(2) for registration as a pharmacist without examination, a fee set by the board not to exceed two hundred dollars ($200); and~~

~~(3)~~] (2) for [~~registration~~] initial licensure

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as a pharmacist intern, a fee not to exceed twenty-five dollars ($25.00); and

(3) for initial registration as a pharmacy technician, a fee not to exceed twenty-five dollars ($25.00).

B. The board shall issue [~~an appropriate certificate of registration or~~] a license [~~to each person registered as a pharmacist or, pharmacist intern~~] or registration to each successful applicant and enter his name and pertinent information in the registry maintained by the board.

C. Every [~~certificate of~~] registration or license [~~of pharmacists or pharmacist interns~~] shall have the seal of the board affixed and be signed by the board [~~secretary-treasurer~~] chairman."

Section 14. Section 61-11-13 NMSA 1978 (being Laws 1969, Chapter 29, Section 12, as amended) is amended to read:

"61-11-13. [~~REGISTRATION~~] RENEWAL--REVOCATION.--

A. [~~All annual licenses for pharmacists shall expire on June 30, and commencing July 1, 1984~~] The annual renewal date for each [~~registrant~~] licensee shall be the last day of the [~~registrant's~~] licensee's birth month. Any person who intends to continue practice shall file an application for renewal and pay the renewal fee set by the board in an amount not to exceed one hundred fifty dollars ($150) prior to that date; provided, however, the board shall prorate any renewal fee charged for any period of less than one year. The license of [~~any~~] a pharmacist

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failing to renew his license on or before that date will automatically expire, and it shall not be reinstated except upon reapplication and payment of a [~~twenty-five dollar ($25.00)~~] one hundred dollar ($100) reinstatement fee and all delinquent renewal fees.

B. [~~Any~~] A pharmacist ceasing to be engaged in the practice of pharmacy for such period as the board determines, but not less than twelve months, is deemed to be inactive and shall have his license renewal so marked. A pharmacist having an inactive status shall not be reinstated to active status without either an examination or the presentation of evidence satisfactory to the board that he has taken some form of internship or continuing education relevant to the practice of pharmacy, or both, immediately prior to his application for reinstatement. Pharmacists regularly engaged in teaching in an approved school or college of pharmacy, servicing, manufacturing, inspecting or other phases of the pharmaceutical profession are in active status for the purposes of this subsection.

C. Application for renewal of [~~pharmacists' licenses~~] a pharmacist's license shall be made on forms prescribed and furnished by the board and shall indicate whether the renewal applied for will be an active or inactive [~~registration~~] license. The application, together with the renewal fee, shall be filed with the board.

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D. Application for renewal of [~~pharmacists' licenses~~] a pharmacist's license shall be accompanied by proof satisfactory to the board that the applicant has completed continuing education requirements established pursuant to Section 61-11-6 NMSA 1978.

E. [~~Applications~~] An application for renewal of a certificate of registration as a pharmacy technician or license as a pharmacist intern shall be filed with the board on forms prescribed and furnished by the board and shall be accompanied by a renewal fee not to exceed twenty-five dollars ($25.00) per year."

Section 15. Section 61-11-14 NMSA 1978 (being Laws 1969, Chapter 29, Section 13, as amended) is amended to read:

"61-11-14. PHARMACY LICENSURE--WHOLESALE DRUG DISTRIBUTION BUSINESS LICENSURE--REQUIREMENTS--FEES--REVOCATION.--

A. Any person who desires to operate or maintain the operation of a pharmacy or who engages in a wholesale drug distribution business in this state shall apply to the board for the proper [~~permit or~~] license and shall meet the requirements of the board and pay the annual fee for the [~~permit or~~] license and its renewal.

B. The board shall issue the following classes of [~~permits or~~] licenses that shall be defined and limited by regulation of the board:

(1) retail pharmacy [~~license~~];

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(2) nonresident pharmacy [~~license~~];

(3) wholesale drug [~~distributor's license~~] distributor;

(4) drug [~~manufacturer's license~~] manufacturer;

(5) hospital pharmacy; [~~license for both inpatient and outpatient dispensing;~~

~~(6) drug room license;~~

~~(7) drug custodial license for licensed nursing homes;~~

~~(8) state license for the department of health;~~

~~(9) drug permit for~~] (6) pharmaceutical sales [~~representatives who possess dangerous drugs~~] representative;

[~~(10) limited drug permit for industrial and public health clinics not under the department of health and businesses of a similar nature where dangerous drugs are dispensed, the permit being limited to specific dangerous drugs or other limitations as set forth in the application and shown on the permit,~~]

(7) industrial health clinic;

(8) public health clinic;

(9) custodial care facility;

[~~(11) limited drug permit for~~] (10) home care services [~~not under the department of health in which dangerous drugs are stored and administered, the permit being limited to specific dangerous drugs or other limitations as set forth in~~

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~~the board's regulations and shown on the permit; and~~

~~(12) limited license for wholesalers, retailers or distributors~~];

(11) emergency medical services;

(12) animal control facilities; and

(13) wholesaler, retailer or distributor of veterinary drugs bearing the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian". Such drugs may be sold or dispensed by any person possessing a retail pharmacy license, wholesale drug distributor's license or drug manufacturer's license issued by the board, without the necessity of acquiring [~~a limited~~] an additional license for veterinary drugs [~~as provided in this paragraph~~].

C. Every application for the issuance or annual renewal of:

(1) a license for a retail pharmacy, wholesale drug distributor, nonresident pharmacy, pharmaceutical sales representative, drug manufacturer or hospital pharmacy shall be accompanied by a fee set by the board in an amount not to exceed three hundred dollars ($300);

(2) a license [~~or permit for a drug room or a nursing home~~] for a custodial care facility shall be accompanied by a fee set by the board in an amount not to exceed [~~one hundred dollars ($100)~~] two hundred dollars ($200); and

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(3) a license [~~or a permit~~] for an industrial [~~or~~] health clinic; a public health clinic; [~~or a business of a similar nature, a limited drug permit issued pursuant to the provisions of Paragraph (11) of Subsection B of this section or a limited license issued pursuant to Paragraph (12) of Subsection B of this section~~] home care services; emergency medical services; animal control facilities; or wholesaler, retailer or distributor of veterinary drugs shall be accompanied by a fee set by the board in an amount not to exceed two hundred dollars ($200) [~~and~~

~~(4) the department of health license shall be accompanied by a fee set by the board in an aggregate amount based on a charge not to exceed two hundred dollars ($200) for each facility where dangerous drugs are stored and dispensed or distributed; provided that the charge for each facility shall in no instance be more than the fee set for industrial or public health clinics~~].

D. If it is desired to operate or maintain a pharmaceutical business at more than one location, a separate license [~~or permit~~] shall be obtained for each location.

E. Each application for a [~~permit or~~] license shall be made on forms prescribed and furnished by the board.

F. Any person making application to the board for a license to operate a new retail pharmacy, hospital pharmacy, wholesale drug [~~business~~] distributor or drug [~~manufacturing~~

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~~business~~] manufacturer in this state shall submit to the board an application for licensure indicating:

(1) the name under which the business is to be operated;

(2) the address of each location to be licensed and the address of the principal office of the business;

(3) in the case of a retail pharmacy, the name and address of the owner, partner or officer or director of a corporate owner;

(4) the type of business to be conducted at each location;

(5) a rough drawing of the floor plan of each location to be licensed;

(6) the proposed days and hours of operation of the business; and

(7) other information the board may require.

G. After preliminary approval of the application for a license for a retail pharmacy, a hospital pharmacy, a drug [~~manufacturing business~~] manufacturer or a wholesale drug [~~distribution business~~] distributor, a request for an inspection, together with an inspection fee not to exceed two hundred dollars ($200), shall be submitted to the board for each business location, and an inspection shall be made of each location by the board or its agent.

H. Following a deficiency-free inspection, the

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executive director of the board may issue a temporary license to the applicant. The temporary license shall expire at the close of business on the last day of the next regular board meeting.

[~~G.~~] I. Licenses [~~and permits~~] issued by the board [~~under~~] pursuant to this section are not transferable and shall expire on December 31 of each year unless renewed. Any person failing to renew his license [~~or permit~~] on or before December 31 of each year shall not have his license [~~or permit~~] reinstated except upon reapplication and payment of a reinstatement fee set by the board in an amount not to exceed one hundred dollars ($100) and all delinquent renewal fees.

[~~H.~~] J. The board, after notice and a refusal or failure to comply, [~~is authorized to~~] may suspend or revoke any license [~~or permit~~] issued under the provisions of the Pharmacy Act at any time examination or inspection of the operation for which the license [~~or permit~~] was granted discloses that [~~such place~~] the operation is not being conducted according to law or regulations of the board."

Section 16. Section 61-11-14.1 NMSA 1978 (being Laws 1992, Chapter 19, Section 7) is amended to read:

"61-11-14.1. NONRESIDENT PHARMACY LICENSURE--TOLL-FREE TELEPHONE SERVICE.--

A. Any person making application to the board for a nonresident pharmacy license shall submit to the board an application for licensure that discloses the following

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information:

(1) the address of the principal office of the nonresident pharmacy and the names and titles of all principal corporate officers and all pharmacists who are dispensing controlled substances or dangerous drugs to residents of this state. A report containing this information shall be made on an annual basis and within thirty days after any change of office location, corporate officer or pharmacist in charge;

(2) that the nonresident pharmacy complies with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is a resident, as well as with requests for information made by the board pursuant to this section;

(3) that the nonresident pharmacy maintains, at all times, a valid license, permit or registration to operate the pharmacy in compliance with the laws of the state in which it is a resident;

(4) a copy of the most recent inspection report resulting from an inspection of the nonresident pharmacy conducted by the regulatory or licensing agency of the state in which it is a resident; and

(5) that the nonresident pharmacy maintains its records of controlled substances or dangerous drugs that are dispensed to patients in this state so that the records are readily retrievable.

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B. A nonresident pharmacy licensed under this section shall provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the nonresident pharmacy who has access to the patient's records. A nonresident pharmacy shall provide the toll-free telephone service during its regular hours of operation, but not less than six days a week and for a minimum of forty hours a week. The toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

[~~C. Nothing in this section shall be construed to authorize the dispensing of contact lenses by nonresident pharmacies.~~]"

Section 17. Section 61-11-15 NMSA 1978 (being Laws 1969, Chapter 29, Section 14, as amended) is amended to read:

"61-11-15. PHARMACIES--SALE OF DRUGS--SUPERVISION REQUIREMENTS.--

A. No owner [~~or proprietor~~] of a pharmacy shall:

[~~A.~~] (1) fail to place a pharmacist in charge; [~~of the pharmacy; provided that this restriction shall not apply to any person possessing only a limited license issued under Subsection B of Section 67-9-45 NMSA 1953;~~

~~B.~~] (2) intentionally or fraudulently adulterate or cause to be adulterated or misbrand or cause to be misbranded any drugs compounded, sold or offered for sale in the

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pharmacy;

[~~C.~~] (3) by himself or through any other person, permit the compounding of prescriptions or the selling of dangerous drugs [~~or poisons~~] in his place of business except by a pharmacist, [~~or a~~] pharmacist intern or pharmacy technician;

[~~D.~~] (4) by himself or through any other person, sell, offer for sale, compound or dispense dangerous drugs [~~or poisons~~] without being a pharmacist, pharmacist intern or pharmacy technician; provided that veterinary drugs bearing the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian" may be sold, offered for sale or distributed by persons holding a [~~limited~~] license issued [~~under~~] pursuant to Subsection B of Section [~~67-9-45 NMSA 1953~~] 61-11-14 NMSA 1978; or

[~~E.~~] (5) operate a pharmacy without the appropriate license.

B. Whenever an applicable law, rule or regulation requires or prohibits action by a pharmacy, responsibility for the violation shall be that of the owner and the pharmacist in charge."

Section 18. Section 61-11-16 NMSA 1978 (being Laws 1969, Chapter 29, Section 15) is amended to read:

"61-11-16. PHARMACIES--EQUIPMENT REQUIRED.--There shall be kept in every pharmacy, subject to review or testing by the

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board or its authorized agents, [~~modern prescription balances with weights, the necessary graduates, mortars and pestles, all in good condition, for compounding prescriptions, and~~] such [~~books~~] references and [~~other~~] equipment as the board may designate by regulation."

Section 19. Section 61-11-17 NMSA 1978 (being Laws 1969, Chapter 29, Section 16) is amended to read:

"61-11-17. DISPLAY OF LICENSE.--[~~PERMIT OR CERTIFICATE.--The pharmacist in charge of a pharmacy, a pharmacist or a pharmacist intern, and the owner of a pharmacy or other pharmaceutical business shall cause their current certificate of~~] Every person shall have his license or registration [~~or their current permit or~~] and the license for the operation of the business [~~to be~~] conspicuously displayed in the pharmacy or place of business to which it applies or in which [~~they are~~] he is employed. [~~Failure to display a certificate of registration or a license or permit shall cause the certificate license or permit to be suspended until the provisions of Section 13 of the Pharmacy Act are complied with and the certificate license or permit is properly displayed.~~]"

Section 20. Section 61-11-18 NMSA 1978 (being Laws 1969, Chapter 29, Section 17, as amended) is amended to read:

"61-11-18. STATE LICENSE--ACTIONS AUTHORIZED.--The board shall [~~issue one~~] license [~~to the~~] department of health [~~and environment department of the state to cover all of its~~] clinics

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and other health facilities of the department where dangerous drugs are stored, distributed or dispensed. All such clinics or other health facilities of the department are subject to the provisions of the Pharmacy Act [~~must keep records of all dangerous drugs and may be inspected by the board or its agents at any reasonable time. The license shall permit the health and environment department to:~~

~~A. acquire, possess, store and repackage dangerous drugs for distribution to its clinics and other health facilities, provided it is done under procedures developed by a staff pharmacist of the department charged with the responsibility for the distribution and accountability of the drugs and the procedures are approved by the board;~~

~~B. receive, possess and store dangerous drugs in any clinic or other health facility of the health and environment department for use in any public health program; and~~

~~C. dispense dangerous drugs in furtherance of any public health program under the supervision of a pharmacist, a consulting pharmacist or a licensed practitioner~~]."

Section 21. A new section of the Pharmacy Act is enacted to read:

"[NEW MATERIAL] REPORTS TO BOARD.--A licensee shall report in writing the occurrence of any of the following events to the board within thirty days of discovery:

A. permanent closing of a licensed premises;

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B. change of ownership, management, location or pharmacist in charge;

C. theft or loss of drugs or devices;

D. conviction of an employee for violating any federal or state drug laws;

E. theft, destruction or loss of records required by federal or state law to be maintained;

F. occurrences of significant adverse drug reactions, as defined by regulations of the board;

G. dissemination of confidential information or personally identifiable information to a person other than a person authorized by the provisions of the Pharmacy Act or regulations adopted pursuant to that act to receive such information; and

H. other matters or occurrences as the board may require by regulation."

Section 22. Section 61-11-20 NMSA 1978 (being Laws 1969, Chapter 29, Section 19, as amended) is amended to read:

"61-11-20. DISCIPLINARY PROCEEDINGS--UNIFORM LICENSING ACT.--

A. In accordance with the Uniform Licensing Act, the board may deny, withhold, suspend or revoke any [~~certificate of~~] registration or license held or applied for under the Pharmacy Act upon grounds that the licensee or applicant:

(1) is guilty of gross immorality or

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dishonorable or unprofessional conduct as defined by regulation of the board;

(2) is convicted of a violation of any federal law relating to controlled substances, any federal food and drug law or any federal law requiring the maintenance of drug records;

(3) is guilty of a violation of the Controlled Substances Act, the Pharmacy Act or the New Mexico Drug, Device and Cosmetic Act;

(4) is addicted to the use of dangerous drugs or narcotic drugs of any kind;

(5) is habitually intemperate;

(6) is guilty of knowingly or fraudulently adulterating or misbranding or causing to be adulterated or misbranded any drugs;

(7) is guilty of procuring or attempting to procure [~~registration~~] licensure as a pharmacist or pharmacist intern, registration as a pharmacy technician or licensure for a pharmacy or pharmaceutical business in this state for himself or another by knowingly making or causing to be made false representations to the board;

(8) is unfit or unable to practice pharmacy by reason of a physical or mental disease or disability as determined by the board and based on competent medical authority, during the period of such disability; [~~or~~]

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(9) fails to maintain any drug records required by any federal law resulting in the condemnation of any drugs in his possession or control;

(10) is convicted of any felony;

(11) has furnished false or fraudulent material in any application made in connection with drug or device manufacturing or distribution;

(12) has had any drug manufacturer or wholesale drug distributor license suspended or revoked;

(13) has obtained any remuneration for professional services by fraud, misrepresentation or deception;

(14) has dealt with drugs or devices that he knew or should have known were stolen;

(15) has purchased or received a drug or device from a source other than a person or pharmacy licensed pursuant to the Pharmacy Act, unless otherwise provided in that act, the Controlled Substances Act or the New Mexico Drug, Device and Cosmetic Act;

(16) is a wholesale drug distributor other than a pharmacy and dispenses or distributes drugs or devices directly to a patient;

(17) has violated any rule or regulation adopted by the board pursuant to the Pharmacy Act; or

(18) has divulged or revealed confidential information or personally identifiable information to a person

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other than a person authorized by the provisions of the Pharmacy Act or regulations adopted pursuant to that act to receive such information.

B. Disciplinary proceedings may be instituted by any person, shall be by sworn complaint and shall conform with the provisions of the Uniform Licensing Act. Any party to the hearing may obtain a copy of the hearing record upon payment of costs for the copy.

C. The board may modify any prior order of revocation, suspension or refusal to issue a license [~~or certificate of registration~~] of a pharmacist or a pharmacist intern or registration of a pharmacy technician but only upon a finding by the board that there no longer exist any grounds for disciplinary action; provided that any cessation of the practice of pharmacy for twelve months or more shall require the pharmacist to undergo additional education, internship or examination as the board determines necessary.

[~~D. Nothing in the Pharmacy Act shall be construed as requiring the board to report, for the institution of proceedings, minor violations of the Pharmacy Act whenever the board believes that the public interest will be adequately served by a suitable written notice or warning or by a suspension of a certificate of registration, license or permit for a period not to exceed thirty days after an informal hearing.~~]"

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Section 23. Section 61-11-21 NMSA 1978 (being Laws 1969, Chapter 29, Section 20, as amended) is amended to read:

"61-11-21. LICENSING OF PHARMACISTS AND PHARMACIES REQUIRED.--

A. Unless he is a pharmacist or is exempted under the Pharmacy Act, no person shall sell at retail any dangerous drug [~~or poison~~], compound any prescription or acquire and possess any dangerous drug without its being prescribed.

B. No person shall conduct or operate a place used for the retail sale, compounding or dispensing of drugs or prescriptions or a place represented by a sign or by advertisement to have a business name or specialization that includes the words "pharmacist", "pharmacy", "apothecary", "apothecary shop", "chemist's shop", "drug store", "drugs", "druggist", "drug sundries", "prescriptions" or any combination [~~thereof~~] of these or any other words of similar import or by an insignia or device that might indicate to the public that the place is a pharmacy unless [~~(1)~~] the place is licensed by the board under the Pharmacy Act [~~and~~

~~(2) the business being conducted on the licensed premises constantly employs, on a regular basis, a pharmacist~~].

C. No person shall permit anyone in his employ or under his supervision, except a pharmacist [~~or a~~], pharmacist intern or pharmacy technician, to compound, dispense, label or

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otherwise prepare prescriptions.

D. The provisions of Subsections A, B and C of this section shall not apply to a person possessing a [~~limited~~] license issued [~~under~~] pursuant to Subsection B of Section [~~67-9-45 NMSA 1953~~] 61-11-14 NMSA 1978 for the sale or distribution of veterinary drugs bearing the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; provided that the possessors of such a license may only sell or distribute such drugs on the order of a licensed veterinarian and may not represent their place of business by a sign or advertisement that includes the words "pharmacist", "pharmacy", "apothecary", "apothecary shop", "chemist's shop", "drug store", "drugs", "druggist", "drug sundries", "prescriptions" or any combination [~~thereof~~] of these or any words of similar import or by an insignia or device that might indicate to the public that the place is a pharmacy."

Section 24. Section 61-11-22 NMSA 1978 (being Laws 1969, Chapter 29, Section 21) is amended to read:

"61-11-22. EXEMPTIONS FROM ACT.--

A. The Pharmacy Act does not apply to licensed practitioners in this state in supplying to their patients any drug if the licensed practitioner is practicing his profession and does not keep a pharmacy, advertised or otherwise, for the retailing of dangerous drugs [~~or poisons~~].

B. The Pharmacy Act does not prevent:

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(1) the personal administration of drugs carried by a licensed practitioner in order to supply the immediate needs of his patients; or

(2) the sale of non-narcotic proprietary preparations."

Section 25. Section 61-11-23 NMSA 1978 (being Laws 1969, Chapter 29, Section 22, as amended) is amended to read:

"61-11-23. CONSTRUCTION OF LAWS RELATING TO DRUGS.--

A. The Pharmacy Act does not amend or repeal any of the laws [~~which~~] that govern the manufacture, sale or distribution of controlled substances.

[~~B. The Pharmacy Act does not prevent or apply to the sale or use of economic poisons as defined under the New Mexico Economic Poisons Act of 1951.~~

~~C.~~] B. The Pharmacy Act does not amend or repeal the New Mexico Drug, Device and Cosmetic Act."

Section 26. Section 61-11-24 NMSA 1978 (being Laws 1969, Chapter 29, Section 23, as amended) is amended to read:

"61-11-24. VIOLATIONS--PENALTIES.--

A. It is a [~~petty~~] misdemeanor for any person to:

[~~A.~~] (1) practice or attempt to practice pharmacy without a [~~certificate of registration and a~~] current license from the board;

[~~B.~~] (2) use the title of [~~a~~] registered pharmacist unless he is licensed as such [~~under~~] pursuant to the

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Pharmacy Act;

[~~C.~~] (3) procure or attempt to procure [~~registration~~] licensure as a pharmacist or to procure a license for a pharmacy for himself or another by making or causing to be made false representations to the board;

[~~D.~~] (4) allow any other person in his employ or under his supervision to compound or dispense prescriptions [~~or sell or compound poisons~~] unless he is a pharmacist, [~~or registered as a~~] pharmacist intern or pharmacy technician in accordance with the Pharmacy Act or exempted [~~under~~] from the provisions of [~~the~~] that act; or

[~~E.~~] (5) own, operate or maintain a pharmacy, hospital pharmacy, clinic, custodial care facility or drug distribution business unless licensed to do so [~~under~~] pursuant to the Pharmacy Act.

B. A person convicted pursuant to Subsection A of this section shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

Section 27. Section 61-11-25 NMSA 1978 (being Laws 1969, Chapter 29, Section 24) is amended to read:

"61-11-25. POWER TO ENJOIN VIOLATIONS.--In addition to the remedies provided in the Pharmacy Act, the board [~~of pharmacy is hereby authorized to~~] may apply to the district court for [~~and such court shall have jurisdiction upon hearing and for good cause shown to grant~~] a temporary or permanent injunction

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restraining any person from violating any provision of the Pharmacy Act irrespective of whether or not there exists an adequate remedy at law."

Section 28. Section 61-11-27 NMSA 1978 (being Laws 1969, Chapter 29, Section 26) is amended to read:

"61-11-27. TRANSFER OF FUNDS.--All [~~funds which have~~] money that has accumulated to the credit of the board under any previous law shall be continued for use by the board in the administration of the Pharmacy Act and any other laws being administered by the board."

Section 29. Section 61-11-28 NMSA 1978 (being Laws 1969, Chapter 29, Section 28) is amended to read:

"61-11-28. UNIFORM LICENSING ACT.--The board [~~of Pharmacy shall be~~] is subject to all the provisions of the Uniform Licensing Act."

Section 30. Section 61-11-29 NMSA 1978 (being Laws 1979, Chapter 266, Section 2, as amended) is amended to read:

"61-11-29. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of pharmacy is terminated on July 1, [~~1997~~] 2003 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 11 NMSA 1978 until July 1, [~~1998~~] 2004. Effective July 1, [~~1998 Article 11 of~~] 2004, Chapter 61, Article 11 NMSA 1978 is repealed."

Section 31. TEMPORARY PROVISION--PHARMACY BOARD EXEMPT FROM AUTHORITY OF REGULATION AND LICENSING DEPARTMENT.--

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A. The pharmacy board is not administratively attached to the regulation and licensing department. Executive Order 86-10 issued pursuant to legislative authority provided in Laws 1983, Chapter 297, Section 30 is void as it pertains to the control and supervision of the pharmacy board by the regulation and licensing department.

B. On the effective date of this act, all money, records, supplies, equipment, furniture and other personal property belonging to the pharmacy board that is held by the regulation and licensing department shall be transferred to the pharmacy board.

State of New Mexico
House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 4, 1997

Mr. Speaker:

Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 84

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 3, line 1, before the semicolon insert "as a result of an order of a licensed practitioner".

2. On page 3, line 11, after "prescription" strike the remainder of the line and strike all of line 12.

3. On page 3, line 19, after "patient's" insert "pharmacy".

4. On page 3, line 21, strike "that is privileged".

5. On page 3, line 23, after "professionals" insert

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"as defined by regulation of the board".

6. On page 3, line 24, after "when" strike the line through the comma.

7. On page 3, line 25, after the semicolon strike "and" and insert in lieu thereof "or".

8. On page 5, line 17, strike "interpretation,".

9. On page 9, line 7, after "services" insert "related to drug therapy".

10. On page 10, line 18, strike "interpretation,".

11. On page 10, line 20, after "selection" strike the first comma and insert in lieu thereof "or".

12. On page 10, line 20, before the comma at the end of the line insert "that has been ordered by a licensed practitioner". ,

and thence referred to the JUDICIARY COMMITTEE.

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Respectfully submitted,

Gary K. King, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Vigil

Absent: None

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State of New Mexico
House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 15, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 84

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 37, lines 11 through 13, strike the brackets and line through.

Respectfully submitted,

Thomas P. Foy, Chairman

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Carpenter, Luna, Mallory, Rios

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION

February 16, 1997

HOUSE FLOOR AMENDMENT number ___2___ to HOUSE BILL 84, as amended

Amendment sponsored by Representative Gary K. King

1. On pages 49 and 50, strike Section 31 in its entirety.

_____

Gary K. King

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE

FIRST SESSION

February 18, 1997

HOUSE FLOOR AMENDMENT number ___1___ to HOUSE BILL 84, as amended

Amendment sponsored by Representative Gary K. King

1. Strike House Consumer and Public Affairs Committee amendment 6.

2. On page 3, line 22, after "or" strike the comma and after "directs" strike the comma and insert "; or".

3. On page 31, strike lines 11 and 12.

4. Renumber the succeeding paragraphs accordingly.

5. On page 32, lines 18 and 19, strike "pharmaceutical sales representative,".

6. On page 35, line 18, strike the quotation marks and between lines 18 and 19, insert:

"K. Pharmaceutical sales representatives who carry dangerous drugs shall register with the board. The board may charge a fee not to exceed fifty dollars ($50.00) for registration and annual renewal. Pharmaceutical sales representatives are not subject to the licensing

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provisions of the Pharmacy Act."".

_____
Gary K. King

Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 19, 1997

HOUSE FLOOR AMENDMENT number 3 to HOUSE BILL 84, as amended

Amendment sponsored by Representative Max Coll

1. On page 49 strike lines 16 through 23.

2. Renumber succeeding sections accordingly.

Respectfully submitted,

_____

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[~~bracketed material~~] = delete

Max Coll

Adopted _____ Not Adopted_____

(Chief Clerk) (Chief Clerk)

Date _____

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March 15, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 84, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 31, line 20, strike "public" and insert in lieu thereof "community".

2. On page 31, between lines 20 and 21, insert a new paragraph:

"(9) department of health public health offices;".

3. Renumber succeeding paragraphs accordingly.

4. On page 33, line 2, strike "public" and insert in lieu thereof "community" and after the second semicolon insert "a department of health public health office;".,

and thence referred to the CORPORATIONS & TRANSPORTATION COMMITTEE.

Respectfully submitted,

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[~~bracketed material~~] = delete

_____

Shannon Robinson, Chairman

Adopted_____ Not Adopted_____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Garcia, Ingle, Vernon

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997 HB 84/a

March 19, 1997

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom has been referred

HOUSE BILL 84, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 26, line 5, strike "sixteen" and insert in lieu thereof, "eighteen".

2. On page 40, line 24, strike "thirty" and insert in lieu thereof "fifteen".

Respectfully submitted,

_____
Roman M. Maes, III, Chairman

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%%%

Adopted_____ Not Adopted_____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Griego, Leavell, McKibben

Absent: None

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