

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT  
RELATING TO PRESCRIPTION DRUGS; PROVIDING FOR PRESCRIPTION  
DRUG DONATION; ENACTING A NEW SECTION OF THE NEW MEXICO DRUG,  
DEVICE AND COSMETIC ACT.

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

SECTION 1. A new section of the New Mexico Drug, Device  
and Cosmetic Act is enacted to read:

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

(2) "donor" means an individual who donates  
unused prescription drugs to a clinic or a participating  
practitioner for the purpose of redistribution to established  
patients of that clinic or practitioner;

(3) "participating practitioner" means a  
licensed practitioner who is authorized to prescribe drugs  
and who registers with the board, and is subject to rules

*SPAC sub  
fw*

1 promulgated by the board, to participate in the collection of  
2 donated drugs, prescribed for use by established patients of  
3 that practitioner and donated for the purpose of  
4 redistribution to established patients of that practitioner;

5 (4) "recipient" means an individual who  
6 voluntarily receives donated prescription drugs; and

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

10 B. Unused prescription drugs may be donated to a  
11 clinic or a participating practitioner and a clinic or a  
12 participating practitioner may accept and redistribute the  
13 donated prescription drugs in accordance with rules  
14 promulgated by the board.

15 C. The board shall promulgate rules to establish:

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

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

22 (b) exclude controlled substances.

23 (2) standards and procedures for accepting,  
24 storing, labeling and redistributing donated prescription  
25 drugs;

1 (3) standards and procedures for inspecting  
2 donated prescription drugs to determine that the packaging is  
3 tamper-evident and that the donated prescription drugs are  
4 unadulterated, safe and suitable for redistribution;

5 (4) a form to be signed by the recipient  
6 specifying:

7 (a) knowledge that the donor is not a  
8 pharmacist and took reasonable care of the donated  
9 prescription drug;

10 (b) knowledge that the donor is known  
11 to the clinic or the participating practitioner and that  
12 there is no reason to believe that the donated prescription  
13 drug was improperly handled or stored;

14 (c) that any person who exercises  
15 reasonable care in donating, accepting or redistributing  
16 pursuant to this section shall be immune from civil or  
17 criminal liability or professional disciplinary action of any  
18 kind for any related injury, death or loss; and

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

23 (5) a form to be signed by the donor  
24 verifying that:

25 (a) the donated prescription drug has

1 been properly stored and the container has not been opened or  
2 tampered with;

3 (b) the donated prescription drug has  
4 not been adulterated or misbranded; and

5 (c) the donor is voluntarily donating  
6 the prescription drug;

7 (6) a handling fee not to exceed twenty  
8 dollars (\$20.00) that may be charged to the recipient by the  
9 clinic or the participating practitioner to cover the costs  
10 of inspecting, storing, labeling and redistributing the  
11 donated prescription drug; and

12 (7) any other standards deemed necessary by  
13 the board.

14 D. The board shall maintain and publish a current  
15 listing of clinics and participating practitioners.

16 E. Before redistributing donated prescription  
17 drugs, the clinic or the participating practitioner shall:

18 (1) comply with all applicable federal laws  
19 and the laws of the state that deal with the inspection,  
20 storage, labeling and redistribution of donated prescription  
21 drugs; and

22 (2) examine the donated prescription drug to  
23 determine that it has not been adulterated or misbranded and  
24 certify that the drug has been stored in compliance with the  
25 requirements of the product label.

1 F. Any person who exercises reasonable care in  
2 donating, accepting or redistributing prescription drugs  
3 pursuant to this section shall be immune from civil or  
4 criminal liability or professional disciplinary action of any  
5 kind for any related injury, death or loss.

6 G. The immunity provided by this section shall not  
7 decrease or increase the civil or criminal liability of a  
8 drug manufacturer, distributor or dispenser that would have  
9 existed but for the donation.

10 H. A manufacturer shall not be liable for failure  
11 to transfer or communicate product consumer information or  
12 the expiration date of the donated prescription drug pursuant  
13 to this section.

14 I. This section does not restrict the authority of  
15 an appropriate governmental agency to regulate or ban the use  
16 of any prescription drugs." \_\_\_\_\_

17  
18  
19  
20  
21  
22  
23  
24  
25

