

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

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.

