

SENATE BILL 122

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

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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:

.229077.3AIC      March 3, 2025 (10:36am)

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"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 "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)] (1) "donor" means [an individual] a person 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 promulgated by the board, to participate in the collection of donated drugs, prescribed for use by established patients of that practitioner and donated for the purpose of redistribution to established patients of that practitioner] an eligible recipient for the purpose of redistribution to patients;~~

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

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

SHPAC→~~(b) a health care facility licensed by the health care authority pursuant to the Health Care Code;~~←SHPAC or

(c) a practitioner licensed to prescribe prescription drugs;

~~[(4) "recipient"]~~ (3) "patient" means an individual who voluntarily receives donated prescription drugs; and

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

B. The board shall adopt and promulgate rules for the donation of unused prescription drugs. Any person, including persons from other states, may [be donated] donate unexpired and unused prescription drugs to [a clinic or a participating practitioner, and a clinic or a participating practitioner] an eligible recipient, and an eligible recipient may accept and redistribute the donated prescription drugs in accordance with rules promulgated by the board. Donated prescription drugs shall only be redistributed to a patient if the drugs will not expire before the patient is able to completely use the drugs, based on the directions for use given

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by the patient's prescribing health care professional.

C. The board shall promulgate rules to establish:

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

(a) ensure that the redistribution process is consistent with public health and safety standards; ~~[and]~~

(b) exclude controlled substances; and

(c) allow in-state and out-of-state pharmacies that are experienced in managing donated prescription drugs to distribute donated prescription drugs to patients, either at a physical pharmacy location or through a mail-order pharmacy;

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

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

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

(a) knowledge that the donor ~~[is not a pharmacist and]~~ took reasonable care of the donated

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prescription drug;

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

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

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

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

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

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

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

(6) a handling fee not to exceed [~~twenty~~

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~~dollars (\$20.00)]~~ the reasonable costs of participating in the collection of donated prescription drugs that may be charged to the ~~[recipient]~~ patient by the ~~[clinic or the participating practitioner]~~ eligible recipient to cover the costs of inspecting, storing, labeling and redistributing the donated prescription drug; and

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

D. The board shall maintain and SHPAC→publish←SHPAC SHPAC→make available to the public←SHPAC a current listing of ~~[clinics and participating practitioners]~~ eligible recipients.

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

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

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

SHPAC→F. The board may conduct inspections of eligible recipients to ensure compliance with the requirements

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of this section and rules promulgated pursuant to this section. ←SHPAC

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

SHPAC → G. ←SHPAC SHPAC → H. ←SHPAC The immunity provided by this section shall not decrease or increase the civil or criminal liability of a drug manufacturer, distributor or dispenser that would have existed but for the donation.

SHPAC → H. ←SHPAC SHPAC → I. ←SHPAC A manufacturer shall not be liable for failure to transfer or communicate product consumer information or the expiration date of the donated prescription drug pursuant to this section.

SHPAC → I. ←SHPAC SHPAC → J. ←SHPAC This section does not restrict the authority of an appropriate governmental agency to regulate or ban the use of any prescription drugs."

SHPAC → SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026. ←SHPAC