HOUSE BILL 1202

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Irvin Harrison

AN ACT

RELATING TO PUBLIC HEALTH; PROVIDING FOR TREATMENT OF CERTAIN DISEASES WITHOUT A PRACTITIONER-PATIENT RELATIONSHIP OR AN INTERVENING MEDICAL EVALUATION.

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

Section 1. Section 26-1-16 NMSA 1978 (being Laws 1967, Chapter 23, Section 16, as amended) is amended to read:

"26-1-16. DANGEROUS DRUGS--CONDITIONS FOR SALE--PRESCRIPTION REFILLING--LIMITATIONS.--

A. It is unlawful for [~~any~~] a person to sell, dispose of or possess any dangerous drugs, except:

(1) manufacturers, wholesalers or distributors, their agents or employees licensed by the board to ship dangerous drugs into the state; or

(2) distributors, wholesalers, hospitals,

underscored material = new
[~~bracketed material~~] = delete

nursing homes, clinics or pharmacies and other authorized retailers of dangerous drugs in this state licensed by the board, and appropriate records of dangerous drugs receipt and disposition are kept. These records shall be open to inspection by any enforcement officer of this state.

B. Practitioners licensed in this state may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship. A record of all such dispensing shall be kept showing the date the drug was dispensed and bearing the name and address of the patient to whom dispensed. It is the duty of every licensed physician, dentist, veterinarian, pharmacist or person holding a limited license issued under Subsection B of Section 61-11-14 NMSA 1978, when dispensing any dangerous drug, to mark on the dispensing container the name of the patient, the date dispensed, the name and address of the person dispensing the drug, the name and strength of the drug, expiration date where applicable, adequate directions for use and the prescription number when applicable. All official compendium requirements for the preservation, packaging, labeling and storage of dangerous drugs are applicable where drugs are held for dispensing to the public, whether by a pharmacy, clinic, hospital or practitioner.

C. Notwithstanding the provisions of Subsection B of this section, a practitioner licensed in this state may

underscored material = new
[~~bracketed material~~] = delete

prescribe, provide samples or dispense a dangerous drug to a sex partner of a person with a sexually transmitted disease without a valid practitioner-patient relationship or an intervening medical evaluation. The New Mexico medical board shall promulgate rules to carry out the provisions of this subsection, including identification of the diseases that may be treated pursuant to this subsection.

[~~C.~~] D. Pharmacists are prohibited from selling or disposing of [~~any~~] a dangerous drug except on prescription of a practitioner and except as such sale or possession is authorized under Subsection A of this section. It is the duty of all pharmacists to keep an accurate record of all disposals, which record shall be open to inspection by [~~any~~] an enforcement officer of this state.

[~~D.~~] E. No enforcement officer having knowledge by virtue of [~~his~~] office of [~~any~~] a prescription, order or record shall divulge such knowledge except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party.

[~~E.~~] F. It is unlawful, except as otherwise authorized under Subsection A of this section or the Controlled Substances Act and except for the college of pharmacy of the university of New Mexico or a public health laboratory, for

underscored material = new
[~~bracketed material~~] = delete

[~~any~~] a person to possess any dangerous drug unless such substance has been dispensed to [~~him~~] the person either directly by a practitioner or on a prescription.

[~~F.~~] G. All records required to be kept under the provisions of the New Mexico Drug, Device and Cosmetic Act shall be preserved for a period of three years, provided that records requirements do not apply to the administration of a drug to a patient upon whom the practitioner personally attends, and provided that records of controlled substances shall be kept in accordance with the provisions of the Controlled Substances Act.

[~~G.~~] H. No prescription may be lawfully refilled:

(1) if it is marked by the issuing practitioner as not to be refilled;

(2) when the practitioner indicates a specific number of refills or a specific period of time, on the original prescription calling for a dangerous drug, it may be refilled the number of times or for the period of time indicated; provided the date of refill, the initials of the pharmacist refilling the prescription and the amount of drug dispensed, if it differs from the amount called for on the original prescription, is recorded on the original prescription and provided a prescription issued for drugs controlled by the Controlled Substances Act shall comply with that act;

(3) when the practitioner does not indicate

underscored material = new
[~~bracketed material~~] = delete

refill instructions on the original prescription calling for a dangerous drug, unless:

(a) the practitioner is contacted orally, by telephone, telegraph or other means of communication for instruction; and

(b) if authorization to refill is given the pharmacist, the following information will be immediately transferred to the original prescription: 1) date; 2) name of person authorizing the refill; 3) pharmacist's initials; and 4) amount dispensed if different [~~than~~] from the amount indicated on the original prescription;

(4) when the practitioner indicates on the original prescription calling for dangerous drugs that it may be refilled "prn", the pharmacist may refill it within the limits of the dosage directions for a period of twelve months; provided the date of refilling and the initials of the pharmacist are recorded on the original prescription. At the expiration of the twelve-month period, the practitioner must be contacted for a new prescription; provided that this is not to be construed to apply to those drugs regulated by the Controlled Substances Act; and

(5) the board may adopt and promulgate regulations to permit the use of computer systems for the storage and retrieval of prescriptions, records for the purpose of refilling prescriptions, receipt records, drug distribution

underscored material = new
[~~bracketed material~~] = delete

records, drug withdrawals from stock, drug compounding records, drug disposition records and drug disposal records.

[~~H.~~] I. Nothing in this section shall prevent the owner of livestock or [~~his~~] the owner's consignee or [~~their~~] employees [~~to be~~] from being in possession of drugs for [~~their~~] use in performing routine, accepted livestock management practices in the care of livestock belonging to the owner, and if the drugs are labeled as being restricted to animal use only; 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 drugs may be used or distributed only as provided in Subsection A of Section 26-1-15 NMSA 1978."

underscored material = new
[~~bracketed material~~] = delete