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SENATE BILL 129

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO PHARMACY; REQUIRING THAT THE CURRENT RETAIL PRICE
OF A PRESCRIPTION DRUG BE PROVIDED UPON REQUEST.

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

Section 1. 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~~] An owner of a pharmacy shall not:

- (1) fail to place a pharmacist in charge;
- (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 pharmacy;

(3) [~~by himself~~] alone or through any other

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1 person, permit the compounding of prescriptions or the selling
2 of dangerous drugs in [~~his~~] the owner's place of business
3 except by a pharmacist, pharmacist intern or pharmacy
4 technician;

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

13 (5) operate a pharmacy without the appropriate
14 license.

15 B. An owner of a pharmacy shall provide to a
16 consumer or the attorney general the current retail price for a
17 prescription drug in any dosage or quantity when a consumer or
18 the attorney general requests that information by phone,
19 electronic device or otherwise. If a consumer requests the
20 current retail prices for more than five prescription drugs at
21 one time, the owner shall provide the information to the
22 consumer no more than five days after the request is made;
23 provided that the consumer:

24 (1) requests the information in writing;

25 (2) has a valid prescription for all the drugs

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1 for which the information is requested; and

2 (3) has made no more than three separate
3 requests to the owner for the current retail prices for more
4 than five prescription drugs within a six-month period.

5 ~~[B-]~~ C. Whenever an applicable law, rule or
6 regulation requires or prohibits action by a pharmacy,
7 responsibility for the violation shall be that of the owner and
8 the pharmacist in charge.

9 D. As used in this section, "current retail price"
10 means the cash price for a prescription drug charged to a
11 consumer who has no prescription drug coverage."

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