

SENATE FILE NO. SF0107

Controlled substances.

Sponsored by: Senator(s) Devin and Barrasso and
Representative(s) McMurtrey, Meuli and
Tipton

A BILL

for

1 AN ACT relating to pharmacists; establishing a controlled
2 substances prescription tracking program; authorizing
3 background checks; providing penalties; providing for
4 temporary licenses; modifying license renewal provisions;
5 making conforming amendments; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 35-7-1060 is created to read:

11

12 **35-7-1060. Controlled substances prescription**
13 **tracking program.**

14

15 (a) In addition to other duties and responsibilities
16 as provided by this act, the board shall maintain a

1 computerized program to track prescriptions for controlled
2 substances for the purposes of assisting patients,
3 practitioners and pharmacists to avoid inappropriate use of
4 controlled substances and of assisting with the
5 identification of illegal activity related to the
6 dispensing of controlled substances. The tracking program
7 and any data created thereby shall be administered by the
8 board, and the board may charge reasonable fees to help
9 defray the costs of operating the program. Any fee shall
10 be included with and in addition to other registration fees
11 established by the board as authorized in W.S. 35-7-1023.

12

13 (b) All prescriptions for schedule II, III and IV
14 controlled substances dispensed by any retail pharmacy
15 licensed by the board shall be filed with the board
16 electronically or by other means required by the board.
17 The board may require the filing of other prescriptions and
18 may specify the manner in which the prescriptions are
19 filed.

20

21 (c) The tracking program shall not be used to
22 infringe on the legal use of a controlled substance.
23 Information obtained through the controlled substance
24 prescription tracking program is confidential and may not

1 be released and is not admissible in any judicial or
2 administrative proceeding, except as follows:

3

4 (i) The board may release information to
5 practitioners and pharmacists when the release of such
6 information may be of assistance in preventing or avoiding
7 inappropriate use of controlled substances;

8

9 (ii) The board shall report any information that
10 it reasonably suspects may relate to fraudulent or illegal
11 activity to the appropriate law enforcement agency and the
12 relevant occupational licensing board;

13

14 (iii) The board may release information to the
15 patient to whom the information pertains or his agent or,
16 if the patient is a minor, to his parents or guardian;

17

18 (iv) The board may release information that does
19 not identify individual patients, practitioners,
20 pharmacists or pharmacies, for educational, research or
21 public information purposes; and

22

23 (v) Subject to the rules of evidence,
24 information obtained from the program is admissible in a

1 criminal proceeding or an administrative proceeding
2 involving professional licensing.

3

4 (d) Unless there is shown malice, gross negligence,
5 recklessness or willful and wanton conduct in disclosing
6 information collected under this act, the board, any other
7 state agency and any other person or entity in proper
8 possession of information as provided by this section shall
9 not be subject to any civil or criminal liability or action
10 for legal or equitable relief.

11

12 (e) The board may apply for and accept any gifts,
13 grants or donations to assist in developing and maintaining
14 the program required by this section.

15

16 **Section 2.** W.S. 7-19-201(b), 33-24-113(b), 33-24-116,
17 33-24-121(c), 33-24-122(a)(iv), (viii), (ix) and by
18 creating a new paragraph (x), 33-24-134 by creating a new
19 subsection (e), 33-24-152(e), 33-24-153(d)(ii) and (f),
20 33-24-301 by creating a new subsection (h),
21 35-7-1002(a)(xxviii) and 35-7-1048(a)(iii) are amended to
22 read:

23

1 **7-19-201. State or national criminal history record**
2 **information.**

3

4 (b) Fingerprints taken pursuant to this article shall
5 be submitted to the Wyoming division of criminal
6 investigation for processing and obtaining state or
7 national criminal history record information and shall be
8 accompanied by the fee required by W.S. 7-19-108. Upon
9 payment of required fees, the division shall process and
10 obtain state and national criminal history record
11 information for the Wyoming state board of nursing and the
12 board of pharmacy or for an applicant for licensure or
13 certification by ~~the~~ either board.

14

15 **33-24-113. Licensing of commercial operation**
16 **operating pharmacy; exceptions; display of license;**
17 **suspension, revocation, letter of admonition,**
18 **administrative penalty or refusal to renew.**

19

20 (b) The license shall be displayed in a conspicuous
21 place in the pharmacy for which it is issued, and shall
22 expire one (1) year after the date of issue. It is unlawful
23 for any person or commercial operation to operate a
24 pharmacy unless a license has been issued by the board of

1 pharmacy. The board of pharmacy may suspend, revoke, issue
2 a letter of admonition, assess an administrative penalty of
3 up to two thousand dollars (\$2,000.00) or refuse to renew
4 any registration obtained by false representation or fraud,
5 or when the pharmacy for which the registration was made is
6 kept open for the transaction of business without a
7 registered pharmacist in charge thereof, or when the person
8 to whom registration was granted or his employees or other
9 persons under his supervision or control has been convicted
10 of a violation of W.S. 33-24-101 through ~~33-24-154~~
11 33-24-301. Before any ~~registration~~ administrative penalty
12 may be ~~revoked~~ assessed, the holder ~~thereof~~ of the
13 registration is entitled to a hearing by the board of
14 pharmacy upon due notice of the time and place where the
15 hearing will be held. The accused may be represented by
16 legal counsel, is entitled to compulsory attendance of
17 witnesses and may appeal to the district court of the
18 county in which the pharmacy is situated, in accordance
19 with the Wyoming Administrative Procedure Act. Any
20 administrative penalty assessed shall be paid to the board
21 who shall remit the monies to the county treasurer to the
22 credit of the public school fund of the county in which the
23 violation occurred.

24

1 **33-24-116. Qualifications of applicants for**
2 **examination.**

3
4 Any adult, of good moral character and temperate habits,
5 who has been graduated and admitted a degree of bachelor of
6 science in pharmacy, or equivalent, from a college or
7 university accredited by the national association of boards
8 of pharmacy or the state board of pharmacy, who has served
9 as an intern pharmacist in accordance with this act, and
10 except as hereinafter provided, may make application in
11 writing to the board to be examined by it with reference to
12 his or her qualifications to practice pharmacy. Each
13 applicant shall attest to his qualifications under oath and
14 internship service shall be substantiated by affidavits of
15 the preceptors. In addition, applicants for a pharmacist
16 license under this act shall provide the board with
17 fingerprints, necessary fees and other information required
18 to perform a criminal history record background check as
19 provided for by W.S. 7-19-201. The board may delay issuing
20 a license pending its receipt of the information from the
21 background check.

22
23 **33-24-121. Renewal license certificate; late fee;**
24 **expiration upon failure to renew; reinstatement; continuing**

1 professional education requirement for renewal; reduction
2 or exception determined by board.

3

4 (c) If the licensee fails to secure the renewal
5 certificate before ~~March 31 of the following year~~ December
6 31, his license to practice expires ~~after~~ ten (10) days
7 after mailing of written notice to renew sent to the holder
8 by certified mail, return receipt requested, to the address
9 last recorded for the licensee with the secretary. An
10 expired license may be restored by the board upon
11 compliance with this section ~~within ninety (90) days of~~
12 ~~receipt of the written notice to renew~~ not later than March
13 31 following expiration of the license.

14

15 **33-24-122. Revocation or suspension of license and**
16 **registration; letter of admonition; administrative**
17 **penalties; probation; grounds.**

18

19 (a) Any pharmacist may have his license and
20 registration revoked or suspended by the board of pharmacy
21 or the board may issue a letter of admonition, refuse to
22 issue or renew any license or require successful completion
23 of a rehabilitation program for any of the following
24 causes:

1

2 (iv) For knowingly submitting false or
3 misleading information to the board in his application for
4 ~~examination~~ a license or renewal of a license;

5

6 (viii) If the person's registration or license
7 to practice has been refused, or lapsed for cause, or
8 expired for cause, or revoked for cause, in this or any
9 other jurisdiction; ~~or~~

10

11 (ix) For senility or mental impairment which
12 impedes the pharmacist's professional abilities or for
13 habitual personal use of morphine, cocaine or other habit
14 forming drugs or alcohol; ~~or~~ or

15

16 (x) For physical impairment which unnecessarily
17 impedes the pharmacist's professional abilities and for
18 which there can be no reasonable accommodation.

19

20 **33-24-134. Reciprocity.**

21

22 (e) The board may issue a temporary pharmacist
23 license, provided the applicant has submitted to the board
24 an official application including payment of fees for

1 registration by reciprocity and has met those requirements
2 in subsection (a) of this section as well as other
3 requirements established by the board. A temporary
4 pharmacist license shall not be effective for a period of
5 more than six (6) months from the date of issuance and
6 shall not be renewed. The board may charge a fee not to
7 exceed twenty-five dollars (\$25.00) for issuance of a
8 temporary pharmacist license. A pharmacist with a
9 temporary license may be disciplined as provided by W.S.
10 33-24-122 and 33-24-123.

11

12 **33-24-152. Nonresident pharmacy registration;**
13 **requirements for registration; fees; renewal; denial,**
14 **letter of admonition, administrative penalty, revocation or**
15 **suspension; advertising.**

16

17 (e) The board may deny, issue a letter of admonition,
18 assess an administrative penalty not to exceed two thousand
19 dollars (\$2,000.00) per violation, revoke or suspend a
20 nonresident pharmacy registration for failure to comply
21 with any requirement of this chapter.

22

1 **33-24-153. Manufacturer or wholesaler registration;**
2 **requirements for registration; fees; renewal; denial,**
3 **revocation or suspension.**

4
5 (d) The board may:

6
7 (ii) Revoke or suspend any drug distributor's
8 license, issue a letter of admonition or assess an
9 administrative penalty in an amount not to exceed two
10 thousand dollars (\$2,000.00) for any violation of this act,
11 the Wyoming Controlled Substances Act, the Prescription
12 Drug Marketing Act of 1987 (21 U.S.C. 353) and any rules or
13 regulations promulgated thereunder.

14
15 ~~(f) The purpose of this section shall be to~~
16 ~~implement, administer and enforce the Prescription Drug~~
17 ~~Marketing Act of 1987 (21 U.S.C. 353) and related federal~~
18 ~~regulations~~ Any administrative penalty assessed under this
19 section shall be paid to the board who shall remit the
20 monies to the county treasurer to the credit of the public
21 school fund of the county in which the violation occurred.

22

1 **33-24-301. Pharmacy technicians; licensing;**
2 **definitions; revocation or suspension of license; letter of**
3 **admonition; information required for background checks.**

4
5 (h) An applicant for a pharmacy technician license
6 shall provide the board with fingerprints, fees and other
7 information necessary for a criminal history record
8 background check as authorized by W.S. 7-19-201. The board
9 may delay issuance of a license pending the receipt of the
10 information from the applicant's background check.

11
12 **35-7-1002. Definitions.**

13
14 (a) As used in this act:

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16 (xxviii) "This act" means W.S. 35-7-1001 through
17 ~~35-7-1059~~ 35-7-1060.

18
19 **35-7-1048. Cooperation with federal and other state**
20 **agencies.**

21
22 (a) The state board of pharmacy and the commissioner
23 shall cooperate with federal and other state agencies in
24 discharging their responsibilities concerning traffic in

1 controlled substances and in suppressing the abuse of
2 controlled substances. To this end, they may:

3

4 (iii) Cooperate with the bureau by establishing
5 a centralized unit to accept, catalog, file, and collect
6 statistics, including records of drug dependent persons and
7 other controlled substance law offenders within the state,
8 and make the information available for federal, state, and
9 local law enforcement purposes. Unless otherwise provided
10 by law, they shall not furnish the name or identity of a
11 patient or research subject whose identity could not be
12 obtained under privileged communication acts; and

13

14 **Section 3.** This act is effective July 1, 2003.

15

16

(END)