

ENROLLED ACT NO. 75, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

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

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

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

35-7-1060. Controlled substances prescription tracking program.

(a) In addition to other duties and responsibilities as provided by this act, the board shall maintain a computerized program to track prescriptions for controlled substances for the purposes of assisting patients, practitioners and pharmacists to avoid inappropriate use of controlled substances and of assisting with the identification of illegal activity related to the dispensing of controlled substances. The tracking program and any data created thereby shall be administered by the board, and the board may charge reasonable fees to help defray the costs of operating the program. Any fee shall be included with and in addition to other registration fees established by the board as authorized in W.S. 35-7-1023.

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

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(c) The tracking program shall not be used to infringe on the legal use of a controlled substance. Information obtained through the controlled substance prescription tracking program is confidential and may not be released and is not admissible in any judicial or administrative proceeding, except as follows:

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

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

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

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

(v) Subject to the rules of evidence, information obtained from the program is admissible in a criminal proceeding or an administrative proceeding involving professional licensing.

(d) Unless there is shown malice, gross negligence, recklessness or willful and wanton conduct in disclosing information collected under this act, the board, any other state agency and any other person or entity in proper

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possession of information as provided by this section shall not be subject to any civil or criminal liability or action for legal or equitable relief.

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

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

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

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

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

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(b) The license shall be displayed in a conspicuous place in the pharmacy for which it is issued, and shall expire one (1) year after the date of issue. It is unlawful for any person or commercial operation to operate a pharmacy unless a license has been issued by the board of pharmacy. The board of pharmacy may suspend, revoke, issue a letter of admonition, assess an administrative penalty of up to two thousand dollars (\$2,000.00) or refuse to renew any registration obtained by false representation or fraud, or when the pharmacy for which the registration was made is kept open for the transaction of business without a registered pharmacist in charge thereof, or when the person to whom registration was granted or his employees or other persons under his supervision or control has been convicted of a violation of W.S. 33-24-101 through ~~33-24-154~~ 33-24-301. Before any ~~registration~~ administrative penalty may be ~~revoked~~ assessed, the holder ~~thereof~~ of the registration is entitled to a hearing by the board of pharmacy upon due notice of the time and place where the hearing will be held. The accused may be represented by legal counsel, is entitled to compulsory attendance of witnesses and may appeal to the district court of the county in which the pharmacy is situated, in accordance with the Wyoming Administrative Procedure Act. Any administrative penalty assessed shall be paid to the board who shall remit the monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

33-24-116. Qualifications of applicants for examination.

Any adult, of good moral character and temperate habits, who has been graduated and admitted a degree of bachelor of science in pharmacy, or equivalent, from a college or university accredited by the national association of boards

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of pharmacy or the state board of pharmacy, who has served as an intern pharmacist in accordance with this act, and except as hereinafter provided, may make application in writing to the board to be examined by it with reference to ~~his or her~~ the applicant's qualifications to practice pharmacy. Each applicant shall attest to ~~his~~ the applicant's qualifications under oath and internship service shall be substantiated by affidavits of the preceptors. In addition, applicants for a pharmacist license under this act shall provide the board with fingerprints, necessary fees and other information required to perform a criminal history record background check as provided for by W.S. 7-19-201. The board may delay issuing a license pending its receipt of the information from the background check.

33-24-121. Renewal license certificate; late fee; expiration upon failure to renew; reinstatement; continuing professional education requirement for renewal; reduction or exception determined by board.

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

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

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(a) The license and registration of any pharmacist may ~~have his license and registration~~ be revoked or suspended by the board of pharmacy or the board may issue a letter of admonition, refuse to issue or renew any license or require successful completion of a rehabilitation program for any of the following causes:

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

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

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

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

33-24-134. Reciprocity.

(e) The board may issue a temporary pharmacist license, provided the applicant has submitted to the board an official application including payment of fees for registration by reciprocity and has met those requirements in subsection (a) of this section as well as other requirements established by the board. A temporary pharmacist license shall not be effective for a period of more than six (6) months from the date of issuance and shall not be renewed. The board may charge a fee not to

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exceed twenty-five dollars (\$25.00) for issuance of a temporary pharmacist license. A pharmacist with a temporary license may be disciplined as provided by W.S. 33-24-122 and 33-24-123.

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

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

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

(d) The board may:

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

(f) ~~The purpose of this section shall be to implement, administer and enforce the Prescription Drug Marketing Act of 1987 (21 U.S.C. 353) and related federal regulations~~ Any administrative penalty assessed under this section shall be paid to the board who shall remit the

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monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

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

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

35-7-1002. Definitions.

(a) As used in this act:

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

35-7-1048. Cooperation with federal and other state agencies.

(a) The state board of pharmacy and the commissioner shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may:

(iii) Cooperate with the bureau by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes. Unless otherwise provided

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by law, they shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under privileged communication acts; and

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk