

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 for the  
23 management of severe or intractable pain. Information  
24 obtained through the controlled substance prescription

1 tracking program is confidential and may not be released  
2 and is not admissible in any judicial or administrative  
3 proceeding, except as follows:

4

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

9

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

14

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

18

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

23

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

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

13  
14           (i) The furnishing of information under the  
15 conditions provided in this section;

16  
17           (ii) The receiving, use of or reliance upon such  
18 information;

19  
20           (iii) The failure or omission to furnish any  
21 information; or

22

1           (iv) The fact that any information was incorrect  
2 or was released by the board to a person or entity not  
3 authorized by law to receive the information.

4  
5           (e) The board may apply for and accept any gifts,  
6 grants or donations to assist in developing and maintaining  
7 the program required by this section.

8  
9           **Section 2.** W.S. 7-19-201(b), 33-24-113(b), 33-24-116,  
10 33-24-121(c), 33-24-122(a)(iv), (viii), (ix) and by  
11 creating a new paragraph (x), 33-24-134 by creating a new  
12 subsection (e), 33-24-152(e), 33-24-153(d)(ii) and (f),  
13 33-24-301 by creating a new subsection (h),  
14 35-7-1002(a)(xxviii) and 35-7-1048(a)(iii) are amended to  
15 read:

16  
17           **7-19-201. State or national criminal history record**  
18 **information.**

19  
20           (b) Fingerprints taken pursuant to this article shall  
21 be submitted to the Wyoming division of criminal  
22 investigation for processing and obtaining state or  
23 national criminal history record information and shall be  
24 accompanied by the fee required by W.S. 7-19-108. Upon

1 payment of required fees, the division shall process and  
2 obtain state and national criminal history record  
3 information for the Wyoming state board of nursing and the  
4 board of pharmacy or for an applicant for licensure or  
5 certification by ~~the~~ either board.

6  
7 **33-24-113. Licensing of commercial operation**  
8 **operating pharmacy; exceptions; display of license;**  
9 **suspension, revocation, letter of admonition,**  
10 **administrative penalty or refusal to renew.**

11  
12 (b) The license shall be displayed in a conspicuous  
13 place in the pharmacy for which it is issued, and shall  
14 expire one (1) year after the date of issue. It is unlawful  
15 for any person or commercial operation to operate a  
16 pharmacy unless a license has been issued by the board of  
17 pharmacy. The board of pharmacy may suspend, revoke, issue  
18 a letter of admonition, assess an administrative penalty of  
19 up to ten thousand dollars (\$10,000.00) or refuse to renew  
20 any registration obtained by false representation or fraud,  
21 or when the pharmacy for which the registration was made is  
22 kept open for the transaction of business without a  
23 registered pharmacist in charge thereof, or when the person  
24 to whom registration was granted or his employees or other

1 persons under his supervision or control has been convicted  
2 of a violation of W.S. 33-24-101 through ~~33-24-154~~  
3 33-24-301. Before any ~~registration~~administrative penalty  
4 may be ~~revoked~~assessed, the holder ~~thereof~~of the  
5 registration is entitled to a hearing by the board of  
6 pharmacy upon due notice of the time and place where the  
7 hearing will be held. The accused may be represented by  
8 legal counsel, is entitled to compulsory attendance of  
9 witnesses and may appeal to the district court of the  
10 county in which the pharmacy is situated, in accordance  
11 with the Wyoming Administrative Procedure Act. Any  
12 administrative penalty assessed shall be paid to the board  
13 who shall remit the monies to the county treasurer to the  
14 credit of the public school fund of the county in which the  
15 violation occurred.

16

17 **33-24-116. Qualifications of applicants for**  
18 **examination.**

19

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

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

14

15 **33-24-121. Renewal license certificate; late fee;**  
16 **expiration upon failure to renew; reinstatement; continuing**  
17 **professional education requirement for renewal; reduction**  
18 **or exception determined by board.**

19

20 (c) If the licensee fails to secure the renewal  
21 certificate before ~~March 31 of the following year~~ December  
22 31, his license to practice expires ~~after~~ ten (10) days  
23 after mailing of written notice to renew sent to the holder  
24 by certified mail, return receipt requested, to the address



1 last recorded for the licensee with the secretary. An  
2 expired license may be restored by the board upon  
3 compliance with this section ~~within ninety (90) days of~~  
4 ~~receipt of the written notice to renew~~ not later than March  
5 31 of the following year.

6

7 **33-24-122. Revocation or suspension of license and**  
8 **registration; letter of admonition; administrative**  
9 **penalties; probation; grounds.**

10

11 (a) Any pharmacist may have his license and  
12 registration revoked or suspended by the board of pharmacy  
13 or the board may issue a letter of admonition, refuse to  
14 issue or renew any license or require successful completion  
15 of a rehabilitation program for any of the following  
16 causes:

17

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

21

22 (viii) If the person's registration or license  
23 to practice has been refused, or lapsed for cause, or

1 expired for cause, or revoked for cause, in this or any  
2 other jurisdiction;~~or~~

3

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

8

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

12

13 **33-24-134. Reciprocity.**

14

15 (e) The board may issue a temporary pharmacist  
16 license, provided the applicant has submitted to the board  
17 an official application including payment of fees for  
18 registration by reciprocity and has met those requirements  
19 in subsection (a) of this section as well as other  
20 requirements established by the board. A temporary  
21 pharmacist license shall not be effective for a period of  
22 more than six (6) months from the date of issuance and  
23 shall not be renewed. The board may charge a fee not to  
24 exceed twenty-five dollars (\$25.00) for issuance of a

1 temporary pharmacist license. A pharmacist with a  
2 temporary license may be disciplined as provided by W.S.  
3 33-24-122 and 33-24-123.

4  
5 **33-24-152. Nonresident pharmacy registration;**  
6 **requirements for registration; fees; renewal; denial,**  
7 **letter of admonition, administrative penalty, revocation or**  
8 **suspension; advertising.**

9  
10 (e) The board may deny, issue a letter of admonition,  
11 assess an administrative penalty not to exceed ten thousand  
12 dollars (\$10,000.00) per violation, revoke or suspend a  
13 nonresident pharmacy registration for failure to comply  
14 with any requirement of this chapter.

15  
16 **33-24-153. Manufacturer or wholesaler registration;**  
17 **requirements for registration; fees; renewal; denial,**  
18 **revocation or suspension.**

19  
20 (d) The board may:

21  
22 (ii) Revoke or suspend any drug distributor's  
23 license, issue a letter of admonition or assess an  
24 administrative penalty in an amount not to exceed ten

1 thousand dollars (\$10,000.00) for any violation of this  
2 act, the Wyoming Controlled Substances Act, the  
3 Prescription Drug Marketing Act of 1987 (21 U.S.C. 353) and  
4 any rules or regulations promulgated thereunder.

5  
6 (f) ~~The purpose of this section shall be to~~  
7 ~~implement, administer and enforce the Prescription Drug~~  
8 ~~Marketing Act of 1987 (21 U.S.C. 353) and related federal~~  
9 ~~regulations~~ Any administrative penalty assessed under this  
10 section shall be paid to the board who shall remit the  
11 monies to the county treasurer to the credit of the public  
12 school fund of the county in which the violation occurred.

13  
14 **33-24-301. Pharmacy technicians; licensing;**  
15 **definitions; revocation or suspension of license; letter of**  
16 **admonition; information required for background checks.**

17  
18 (h) An applicant for a pharmacy technician license  
19 shall provide the board with fingerprints, fees and other  
20 information necessary for a criminal history record  
21 background check as authorized by W.S. 7-19-201. The board  
22 may delay issuance of a license pending the receipt of the  
23 information from the applicant's background check.

24

1           **35-7-1002. Definitions.**

2

3           (a) As used in this act:

4

5                   (xxviii) "This act" means W.S. 35-7-1001 through  
6 ~~35-7-1059~~ 35-7-1060.

7

8           **35-7-1048. Cooperation with federal and other state**  
9 **agencies.**

10

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

16

17                   (iii) Cooperate with the bureau by establishing  
18 a centralized unit to accept, catalog, file, and collect  
19 statistics, including records of drug dependent persons and  
20 other controlled substance law offenders within the state,  
21 and make the information available for federal, state, and  
22 local law enforcement purposes. Unless otherwise provided  
23 by law, they shall not furnish the name or identity of a

1 patient or research subject whose identity could not be  
2 obtained under privileged communication acts; and

3

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

5

6

(END)