Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
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CHAPTER 269

HOUSE BILL 2136

AN ACT

AMENDING SECTIONS 32-1907, 36-2522 AND 36-2525, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28; RELATING TO CONTROLLED SUBSTANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1907, Arizona Revised Statutes, is amended to read:

32-1907. Arizona state board of pharmacy fund

A. Except as provided in section 32-1939, the executive director shall receive and receipt for all fees and other monies provided for in this chapter and shall deposit, pursuant to sections 35-146 and 35-147, ten per cent of such monies in the state general fund and ninety per cent in the Arizona state board of pharmacy fund. All monies derived from civil penalties collected pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the general fund.

B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, monies deposited in the Arizona state board of pharmacy fund shall be subject to section 35-143.01.

C. FROM MONIES DEPOSITED IN THE ARIZONA STATE BOARD OF PHARMACY FUND PURSUANT TO SUBSECTION A OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY TRANSFER UP TO THREE HUNDRED NINETY-FIVE THOUSAND SEVEN HUNDRED NINETY-FIVE DOLLARS ANNUALLY TO THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM FUND ESTABLISHED BY SECTION 36-2605 FOR EXPENSES RELATED TO THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM AS REQUIRED BY TITLE 36, CHAPTER 38.

Sec. 2. Section 36-2522, Arizona Revised Statutes, is amended to read:

36-2522. Registration requirements

A. Every person who manufactures, distributes, dispenses, PRESCRIBES or uses for scientific purposes any controlled substance within this state or who proposes to engage in the manufacture, distribution, PRESCRIBING OR dispensing of or using for scientific purposes any controlled substance within this state must first:

1. Obtain and possess a current license or permit as a medical practitioner as defined in section 32-1901 or as a pharmacy, pharmacist, manufacturer or wholesaler pursuant to title 32, chapter 18.

2. Be a registrant under the federal controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 ~~U.S.C. sec.~~ UNITED STATES CODE SECTION 801 et seq.).

B. A person who is registered under this chapter to manufacture, distribute, dispense, PRESCRIBE or use for scientific purposes controlled substances may possess, manufacture, distribute, dispense, PRESCRIBE or use for scientific purposes those substances to the extent authorized by that person's license or permit in conformity with this chapter and title 32, chapter 18.

C. The following persons need not register and may lawfully possess controlled substances under this chapter:

1. An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if he is acting in the usual course of his business or employment.

2. A common or contract carrier or warehouseman or that person's employee whose possession of any controlled substance is in the usual course of business or employment.

3. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a medical practitioner or in lawful possession of a schedule V substance.

4. An officer or employee of the department of public safety, A PROFESSIONAL REGULATORY BOARD ESTABLISHED BY TITLE 32, CHAPTER 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 OR 29 or the ARIZONA STATE board OF PHARMACY or a peace officer as defined in section 1-215 in the lawful performance of that person's duties.

D. The board may waive by rule the requirement for registration of certain manufacturers, distributors or dispensers if the board finds waiver consistent with the public health and safety or the requirements of the United States drug enforcement administration.

E. The board OR ITS DESIGNEE may inspect the establishment of a registrant or applicant for registration in accordance with the board's regulation IF THE BOARD OR ITS DESIGNEE HAS INFORMATION THAT THE BOARD OR ITS DESIGNEE BELIEVES WOULD REQUIRE AN ON-SITE INSPECTION.

Sec. 3. Section 36-2525, Arizona Revised Statutes, is amended to read:

36-2525. Prescription orders; labels

A. In addition to requirements in section 32-1968, pertaining to prescription orders for prescription-only drugs, the prescription order for a controlled substance shall bear the name, address and federal registration number of the prescriber. A prescription order for a schedule II controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank. If authorized verbally by the prescriber, the pharmacist may make changes to correct errors or omissions made by the prescriber on the following parts of a written schedule II controlled substance prescription order:

1. The date issued.

2. The strength, dosage form or quantity of drug.

3. The directions for its use.

B. The pharmacist must document on the original prescription order the changes that were made pursuant to the verbal authorization and record the time and date the authorization was granted.

C. A person registered to dispense controlled substances under this chapter must keep and maintain prescription orders for controlled substances as follows:

1. Prescription orders for controlled substances listed in schedules I and II must be maintained in a separate prescription file for controlled substances listed in schedules I and II only.

2. Prescription orders for controlled substances listed in schedules III, IV and V must be maintained either in a separate prescription file for controlled substances listed in schedules III, IV and V only or in a form

that allows them to be readily retrievable from the other prescription records of the registrant. For the purposes of this paragraph, "readily retrievable" means that when the prescription is initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" in a font that is not less than one inch high and that the prescription is filed in the usual consecutively numbered prescription file for noncontrolled substance prescriptions. The requirement to stamp the hard copy prescription with a red "C" is waived if a registrant employs an electronic data processing system or other electronic record keeping system for prescriptions that permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed and date filled.

D. Except in emergency situations in conformity with subsection E of this section, under the conditions specified in subsections F~~,~~ AND G ~~and H~~ of this section or when dispensed directly by a medical practitioner to an ultimate user, a controlled substance in schedule II shall not be dispensed without the written prescription order in ink or indelible pencil or typewritten and manually signed by the medical practitioner. A prescription order for a schedule II substance shall not be dispensed more than ~~sixty~~ NINETY days after the date on which the prescription order was issued. A prescription order for a schedule II substance shall not be refilled.

E. In emergency situations, emergency quantities of schedule II substances may be dispensed on an oral prescription order of a medical practitioner. Such an emergency prescription order shall be immediately reduced to writing by the pharmacist and shall contain all the information required for schedule II drugs except for the manual signing of the order by the medical practitioner. Within seven days after authorizing an emergency oral prescription order, the prescribing medical practitioner shall cause a written prescription order manually signed for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to other requirements for prescription orders for schedule II substances, it shall have written on its face "authorization for emergency dispensing" and the date of the oral order. If the prescribing medical practitioner fails to deliver such an emergency prescription order within seven days in conformance with board rules, the pharmacist shall notify the board. Failure of the pharmacist to notify the board shall void the authority conferred by this subsection to dispense without a written, manually-signed prescription order of a medical practitioner.

F. The following may be transmitted to a pharmacy by facsimile by a patient's medical practitioner or the medical practitioner's agent:

1. A prescription order written for a schedule II ~~narcotic~~ controlled substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.

2. A prescription order written for any schedule II controlled substance for a resident of a long-term care facility.

3. A prescription order written for a schedule II ~~narcotic~~ controlled substance for a patient enrolled in a hospice care program certified or paid for by medicare under title XVIII or a hospice program that is licensed by this state. The medical practitioner or the medical practitioner's agent must note on the prescription that the patient is a hospice patient.

G. A facsimile transmitted pursuant to subsection F of this section is the original written prescription order for purposes of this section and must be maintained as required by subsection C of this section.

H. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance included in schedule III or IV that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order shall not be filled or refilled more than six months after the date on which the prescription order was issued. A prescription order authorized to be refilled shall not be refilled more than five times. Additional quantities may only be authorized by the prescribing medical practitioner through issuance of a new prescription order ~~which~~ THAT shall be treated by the pharmacist as a new and separate prescription order.

I. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance that is included in schedule V and that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order may be refilled as authorized by the prescribing medical practitioner but shall not be filled or refilled more than one year after the date of issuance.

J. A controlled substance that is listed in schedule III, IV or V and that does not require a prescription order as determined under state or federal laws may be dispensed at retail by a pharmacist, a pharmacy intern or a graduate intern under the pharmacist's supervision~~,~~ without a prescription order to a purchaser WHO IS at least eighteen years of age ~~provided that~~ IF all of the following are true:

1. It is for a legitimate medical purpose.

2. Not more than two hundred forty cubic centimeters (eight ounces) of any such controlled substance containing opium, nor more than one hundred twenty cubic centimeters (four ounces) of any other such controlled substance, nor more than forty-eight dosage units of any such controlled substance containing opium, nor more than twenty-four dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given forty-eight hour period.

3. No more than one hundred dosage units of any single active ingredient ephedrine preparation may be sold, offered for sale, bartered, or given away to any one person in any one thirty-day period.

4. The pharmacist, pharmacy intern or graduate intern requires every purchaser of a controlled substance under this subsection not known to that

person to furnish suitable identification, including proof of age where appropriate.

5. A bound record book for dispensing controlled substances under this subsection is maintained by the pharmacist and contains the name and address of the purchaser, the name and quantity of the controlled substance purchased, the date of each purchase and the name or initials of the pharmacist, pharmacy intern or graduate intern who dispensed the substance to the purchaser. Such book shall be maintained in conformity with the record keeping requirements of section 36-2523.

K. In the absence of a law requiring a prescription for a schedule V controlled substance, the board ~~may~~, by rules, MAY require, or remove the requirement of, a prescription order for a schedule V controlled substance.

L. The label on a container of a controlled substance directly dispensed by a medical practitioner or pharmacist, not for the immediate administration to the ultimate user, such as a bed patient in a hospital, shall bear the name and address of the dispensing medical practitioner or pharmacist, the serial number, date of dispensing, name of prescriber, name of patient or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the prescription order or required by law. If the controlled substance is included in schedule II, III or IV the label shall bear a transfer warning to the effect: "Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed".

M. The board, by rule, may provide additional requirements for prescribing and dispensing controlled substances.

Sec. 4. Title 36, Arizona Revised Statutes, is amended by adding chapter 28, to read:

CHAPTER 28

CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM

ARTICLE 1. GENERAL PROVISIONS

36-2601. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE ARIZONA STATE BOARD OF PHARMACY OR ITS DESIGNEE.

2. "DISPENSER" MEANS A MEDICAL PRACTITIONER OR PHARMACY THAT IS AUTHORIZED TO DISPENSE CONTROLLED SUBSTANCES.

3. "LICENSED HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 21, 25, 29 OR 33.

4. "MEDICAL PRACTITIONER" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-1901.

5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION OR ASSOCIATION AND THE PERSON'S DULY AUTHORIZED AGENTS.

6. "PROGRAM" MEANS THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM.

36-2602. Controlled substances prescription monitoring program; contracts; retention and maintenance of records

A. THE BOARD SHALL ADOPT RULES TO ESTABLISH A CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM. THE PROGRAM SHALL:

1. INCLUDE A COMPUTERIZED CENTRAL DATABASE TRACKING SYSTEM TO TRACK THE PRESCRIBING, DISPENSING AND CONSUMPTION OF SCHEDULE II, III AND IV CONTROLLED SUBSTANCES THAT ARE DISPENSED BY A MEDICAL PRACTITIONER OR BY A PHARMACY THAT HOLDS A VALID LICENSE OR PERMIT ISSUED PURSUANT TO TITLE 32. THE TRACKING SYSTEM SHALL NOT INTERFERE WITH THE LEGAL USE OF A CONTROLLED SUBSTANCE FOR THE MANAGEMENT OF SEVERE OR INTRACTABLE PAIN.

2. ASSIST LAW ENFORCEMENT TO IDENTIFY ILLEGAL ACTIVITY RELATED TO THE PRESCRIBING, DISPENSING AND CONSUMPTION OF SCHEDULE II, III AND IV CONTROLLED SUBSTANCES.

3. PROVIDE INFORMATION TO PATIENTS, MEDICAL PRACTITIONERS AND PHARMACISTS TO HELP AVOID THE INAPPROPRIATE USE OF SCHEDULE II, III AND IV CONTROLLED SUBSTANCES.

4. BE DESIGNED TO MINIMIZE INCONVENIENCE TO PATIENTS, PRESCRIBING MEDICAL PRACTITIONERS AND PHARMACIES WHILE EFFECTUATING THE COLLECTION AND STORAGE OF INFORMATION.

B. THE BOARD MAY ENTER INTO PRIVATE OR PUBLIC CONTRACTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, TO ENSURE THE EFFECTIVE OPERATION OF THE PROGRAM. EACH CONTRACTOR MUST COMPLY WITH THE CONFIDENTIALITY REQUIREMENTS PRESCRIBED IN THIS ARTICLE AND IS SUBJECT TO THE CRIMINAL PENALTIES PRESCRIBED IN SECTION 36-2610.

C. THE BOARD SHALL MAINTAIN MEDICAL RECORDS INFORMATION IN THE PROGRAM PURSUANT TO THE STANDARDS PRESCRIBED IN SECTION 12-2297.

36-2603. Computerized central database tracking system task force; membership

A. THE BOARD SHALL APPOINT A TASK FORCE TO HELP IT ADMINISTER THE COMPUTERIZED CENTRAL DATABASE TRACKING SYSTEM. THE CHAIRPERSON OF THE BOARD SHALL CHAIR THE TASK FORCE. THE TASK FORCE SHALL INCLUDE THE FOLLOWING MEMBERS:

1. PHARMACISTS, MEDICAL PRACTITIONERS AND OTHER LICENSED HEALTH CARE PROVIDERS.

2. REPRESENTATIVES OF PROFESSIONAL SOCIETIES AND ASSOCIATIONS FOR PHARMACISTS, MEDICAL PRACTITIONERS AND OTHER LICENSED HEALTH CARE PROVIDERS.

3. REPRESENTATIVES OF PROFESSIONAL LICENSING BOARDS.

4. REPRESENTATIVES OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

5. REPRESENTATIVES OF STATE AND FEDERAL AGENCIES THAT HAVE AN INTEREST IN THE CONTROL OF CONTROLLED SUBSTANCES.

6. CRIMINAL PROSECUTORS.

B. THE TASK FORCE SHALL MEET TO ESTABLISH THE PROCEDURES AND CONDITIONS RELATING TO THE RELEASE OF PRESCRIPTION INFORMATION PURSUANT TO

SECTION 36-2604. THE TASK FORCE SHALL MEET AT LEAST ONCE EACH YEAR AND AT THE CALL OF THE CHAIRPERSON.

C. TASK FORCE MEMBERS SERVE AT THE PLEASURE OF THE BOARD AND ARE NOT ELIGIBLE TO RECEIVE COMPENSATION OR REIMBURSEMENT OF EXPENSES.

36-2604. Use and release of confidential information

A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, PRESCRIPTION INFORMATION SUBMITTED TO THE BOARD PURSUANT TO THIS ARTICLE IS CONFIDENTIAL AND IS NOT SUBJECT TO PUBLIC INSPECTION. THE BOARD SHALL ESTABLISH PROCEDURES TO ENSURE THE PRIVACY AND CONFIDENTIALITY OF PATIENTS AND THAT PATIENT INFORMATION THAT IS COLLECTED, RECORDED AND TRANSMITTED PURSUANT TO THIS ARTICLE IS NOT DISCLOSED EXCEPT AS PRESCRIBED IN THIS SECTION.

B. THE BOARD OR ITS DESIGNEE SHALL REVIEW THE PRESCRIPTION INFORMATION COLLECTED PURSUANT TO THIS ARTICLE. IF THE BOARD OR ITS DESIGNEE HAS REASON TO BELIEVE AN ACT OF UNPROFESSIONAL OR ILLEGAL CONDUCT HAS OCCURRED, THE BOARD OR ITS DESIGNEE SHALL NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING BOARD OR LAW ENFORCEMENT OR CRIMINAL JUSTICE AGENCY AND PROVIDE THE PRESCRIPTION INFORMATION REQUIRED FOR AN INVESTIGATION.

C. THE BOARD MAY RELEASE DATA COLLECTED BY THE PROGRAM TO THE FOLLOWING:

1. A PERSON WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE A CONTROLLED SUBSTANCE TO ASSIST THAT PERSON TO PROVIDE MEDICAL OR PHARMACEUTICAL CARE TO A PATIENT OR TO EVALUATE A PATIENT.

2. AN INDIVIDUAL WHO REQUESTS THE INDIVIDUAL'S OWN PRESCRIPTION MONITORING INFORMATION PURSUANT TO SECTION 12-2293.

3. A PROFESSIONAL LICENSING BOARD ESTABLISHED PURSUANT TO TITLE 32, CHAPTER 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 OR 29. EXCEPT AS REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION ONLY IF THE REQUESTING BOARD STATES IN WRITING THAT THE INFORMATION IS NECESSARY FOR AN OPEN INVESTIGATION OR COMPLAINT.

4. A LOCAL, STATE OR FEDERAL LAW ENFORCEMENT OR CRIMINAL JUSTICE AGENCY. EXCEPT AS REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION ONLY IF THE REQUESTING AGENCY STATES IN WRITING THAT THE INFORMATION IS NECESSARY FOR AN OPEN INVESTIGATION OR COMPLAINT.

5. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION REGARDING PERSONS WHO ARE RECEIVING SERVICES PURSUANT TO CHAPTER 29 OF THIS TITLE. EXCEPT AS REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION ONLY IF THE ADMINISTRATION STATES IN WRITING THAT THE INFORMATION IS NECESSARY FOR AN OPEN INVESTIGATION OR COMPLAINT.

6. A PERSON SERVING A LAWFUL ORDER OF A COURT OF COMPETENT JURISDICTION.

D. THE BOARD MAY PROVIDE DATA TO PUBLIC OR PRIVATE ENTITIES FOR STATISTICAL, RESEARCH OR EDUCATIONAL PURPOSES AFTER REMOVING INFORMATION THAT

COULD BE USED TO IDENTIFY INDIVIDUAL PATIENTS OR PERSONS WHO RECEIVED PRESCRIPTIONS FROM DISPENSERS.

36-2605. Controlled substances prescription monitoring program fund

A. THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE APPROPRIATIONS, TRANSFERS PURSUANT TO SECTION 32-1907 AND ANY GRANTS, GIFTS OR DONATIONS RECEIVED BY THE BOARD. THE BOARD SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND SHALL BE USED TO OPERATE THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM ESTABLISHED PURSUANT TO SECTION 36-2602.

B. THE BOARD MAY APPLY FOR GRANTS AND MAY ACCEPT GIFTS, GRANTS OR DONATIONS FOR THE ESTABLISHMENT AND MAINTENANCE OF THE COMPUTERIZED PRESCRIPTION MONITORING PROGRAM.

36-2606. Registration; requirements

A. BEGINNING NOVEMBER 1, 2007 AND PURSUANT TO RULES ADOPTED BY THE BOARD, EACH MEDICAL PRACTITIONER WHO IS ISSUED A LICENSE PURSUANT TO TITLE 32 AND WHO POSSESSES A REGISTRATION UNDER THE FEDERAL CONTROLLED SUBSTANCES ACT MUST HAVE A CURRENT CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM REGISTRATION ISSUED BY THE BOARD. THE REGISTRATION IS:

1. SUBJECT TO BIENNIAL RENEWAL AS SPECIFIED IN THIS ARTICLE.

2. NOT TRANSFERABLE OR ASSIGNABLE.

3. VALID ONLY IN CONJUNCTION WITH A VALID LICENSE ISSUED BY A PROFESSIONAL LICENSING BOARD ESTABLISHED PURSUANT TO TITLE 32, CHAPTER 7, 11, 13, 14, 15, 16, 17, 21, 25 OR 29.

B. AN APPLICANT FOR REGISTRATION PURSUANT TO THIS SECTION MUST SUBMIT AN APPLICATION AS PRESCRIBED BY THE BOARD.

C. THE BOARD SHALL ASSIGN ALL PERSONS REGISTERED UNDER THIS ARTICLE TO ONE OF TWO REGISTRATION RENEWAL GROUPS. THE HOLDER OF A REGISTRATION ENDING IN AN EVEN NUMBER MUST RENEW THE REGISTRATION BIENNIALLY ON OR BEFORE MAY 1 OF THE NEXT EVEN-NUMBERED YEAR. THE HOLDER OF A REGISTRATION ENDING IN AN ODD NUMBER MUST RENEW THE REGISTRATION BIENNIALLY ON OR BEFORE MAY 1 OF THE NEXT ODD-NUMBERED YEAR. THE BOARD SHALL AUTOMATICALLY SUSPEND THE REGISTRATION OF ANY REGISTRANT WHO FAILS TO RENEW THE REGISTRATION ON OR BEFORE MAY 1 OF THE YEAR IN WHICH THE RENEWAL IS DUE. THE BOARD SHALL VACATE A SUSPENSION IF THE REGISTRANT SUBMITS A RENEWAL APPLICATION. A SUSPENDED REGISTRANT IS PROHIBITED FROM ACCESSING INFORMATION IN THE PRESCRIPTION MONITORING PROGRAM DATABASE TRACKING SYSTEM.

D. A REGISTRANT SHALL NOT APPLY FOR REGISTRATION RENEWAL MORE THAN SIXTY DAYS BEFORE THE EXPIRATION DATE OF THE REGISTRATION.

E. AN APPLICANT FOR REGISTRATION RENEWAL PURSUANT TO THIS SECTION MUST SUBMIT A RENEWAL APPLICATION PRESCRIBED BY THE BOARD BY RULE.

F. PURSUANT TO A FEE PRESCRIBED BY THE BOARD BY RULE, THE BOARD MAY ISSUE A REPLACEMENT REGISTRATION TO A REGISTRANT WHO REQUESTS A REPLACEMENT BECAUSE THE ORIGINAL WAS DAMAGED OR DESTROYED, BECAUSE OF A CHANGE OF NAME OR FOR ANY OTHER GOOD CAUSE AS PRESCRIBED BY THE BOARD.

36-2607. Disciplinary action

A. THE REGISTRANT'S PROFESSIONAL LICENSING BOARD MAY REVOKE OR SUSPEND A REGISTRANT'S REGISTRATION OR MAY PLACE THE REGISTRANT ON PROBATION FOR ANY OF THE FOLLOWING:

1. THE REGISTRANT'S PROFESSIONAL LICENSING BOARD DETERMINES THAT THE REGISTRATION WAS OBTAINED BY FRAUDULENT MEANS.

2. THE REGISTRANT'S PROFESSIONAL LICENSING BOARD TAKES ACTION TO REVOKE, SUSPEND OR PLACE ON PROBATION THE REGISTRANT'S LICENSE, PERMIT OR REGISTRATION TO PRESCRIBE OR DISPENSE DRUGS.

3. THE REGISTRATION WAS ISSUED THROUGH ERROR.

4. THE REGISTRANT KNOWINGLY FILES WITH THE BOARD ANY APPLICATION, RENEWAL OR OTHER DOCUMENT THAT CONTAINS FALSE OR MISLEADING INFORMATION OR THE REGISTRANT GIVES FALSE OR MISLEADING TESTIMONY TO THE BOARD.

5. THE REGISTRANT KNOWINGLY MAKES A FALSE REPORT OR RECORD REQUIRED BY THIS ARTICLE.

B. THE BOARD MAY DENY A REGISTRATION TO AN APPLICANT FOR THE GROUNDS PRESCRIBED IN SUBSECTION A.

C. IN ADDITION TO ANY OTHER LAW, A LICENSED OR PERMITTED MEDICAL PRACTITIONER, PHARMACIST OR PHARMACY THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE IS SUBJECT TO DISCIPLINARY ACTION BY THE MEDICAL PRACTITIONER'S, PHARMACIST'S OR PHARMACY'S PROFESSIONAL LICENSING BOARD. THE BOARD OF PHARMACY SHALL REPORT TO THE APPROPRIATE PROFESSIONAL LICENSING BOARD THE FAILURE OF A LICENSED OR PERMITTED MEDICAL PRACTITIONER, PHARMACIST OR PHARMACY TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

36-2608. Reporting requirements

A. IF A MEDICAL PRACTITIONER DISPENSES A CONTROLLED SUBSTANCE LISTED IN SECTION 36-2513, 36-2514 OR 36-2515, OR IF A PRESCRIPTION FOR A CONTROLLED SUBSTANCE LISTED IN ANY OF THOSE SECTIONS IS DISPENSED BY A PHARMACY IN THIS STATE, A HEALTH CARE FACILITY IN THIS STATE FOR OUTPATIENT USE OR A BOARD-PERMITTED NONRESIDENT PHARMACY FOR DELIVERY TO A PERSON RESIDING IN THIS STATE, THE MEDICAL PRACTITIONER, HEALTH CARE FACILITY OR PHARMACY MUST REPORT THE FOLLOWING INFORMATION AS APPLICABLE AND AS PRESCRIBED BY THE BOARD BY RULE:

1. THE NAME, ADDRESS, TELEPHONE NUMBER, PRESCRIPTION NUMBER AND DRUG ENFORCEMENT ADMINISTRATION CONTROLLED SUBSTANCE REGISTRATION NUMBER OF THE DISPENSER.

2. THE NAME, ADDRESS AND DATE OF BIRTH OF THE PERSON OR, IF FOR AN ANIMAL, THE OWNER OF THE ANIMAL FOR WHOM THE PRESCRIPTION IS WRITTEN.

3. THE NAME, ADDRESS, TELEPHONE NUMBER AND DRUG ENFORCEMENT ADMINISTRATION CONTROLLED SUBSTANCE REGISTRATION NUMBER OF THE PRESCRIBING MEDICAL PRACTITIONER.

4. THE NAME, STRENGTH, QUANTITY, DOSAGE AND NATIONAL DRUG CODE NUMBER OF THE SCHEDULE II, III OR IV CONTROLLED SUBSTANCE DISPENSED.

5. THE DATE THE PRESCRIPTION WAS DISPENSED.

6. THE NUMBER OF REFILLS, IF ANY, AUTHORIZED BY THE MEDICAL PRACTITIONER.

B. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, A PHARMACY MUST USE THE AUGUST 31, 2005 VERSION 003, RELEASE 000 STANDARD IMPLEMENTATION GUIDE FOR PRESCRIPTION MONITORING PROGRAMS PUBLISHED BY THE AMERICAN SOCIETY FOR AUTOMATION IN PHARMACY OR ANY SUBSEQUENT VERSION OR RELEASE OF THAT GUIDE TO REPORT THE REQUIRED INFORMATION.

C. THE BOARD SHALL ALLOW THE REPORTER TO TRANSMIT THE REQUIRED INFORMATION BY ELECTRONIC DATA TRANSFER IF FEASIBLE OR, IF NOT FEASIBLE, ON REPORTING FORMS AS PRESCRIBED BY THE BOARD. THE BOARD SHALL NOT REQUIRE THE REPORTER TO SUBMIT THE REQUIRED INFORMATION MORE FREQUENTLY THAN ONCE EACH WEEK.

D. A DISPENSER WHO DOES NOT HAVE AN AUTOMATED RECORD KEEPING SYSTEM CAPABLE OF PRODUCING AN ELECTRONIC REPORT IN THE ESTABLISHED FORMAT MAY REQUEST A WAIVER FROM ELECTRONIC REPORTING BY SUBMITTING A WRITTEN REQUEST TO THE BOARD. THE BOARD SHALL GRANT THE REQUEST IF THE DISPENSER AGREES IN WRITING TO REPORT THE DATA BY SUBMITTING A COMPLETED UNIVERSAL CLAIM FORM AS PRESCRIBED BY THE BOARD BY RULE.

E. THE BOARD BY RULE MAY PRESCRIBE THE PRESCRIPTION FORM TO BE USED IN PRESCRIBING A SCHEDULE II, III OR IV CONTROLLED SUBSTANCE IF THE BOARD DETERMINES THAT THIS WOULD FACILITATE THE REPORTING REQUIREMENTS OF THIS SECTION.

F. THE REPORTING REQUIREMENTS OF THIS SECTION DO NOT APPLY TO THE FOLLOWING:

1. A CONTROLLED SUBSTANCE ADMINISTERED DIRECTLY TO A PATIENT.

2. A CONTROLLED SUBSTANCE DISPENSED BY A MEDICAL PRACTITIONER AT A HEALTH CARE FACILITY LICENSED BY THIS STATE IF THE QUANTITY DISPENSED IS LIMITED TO AN AMOUNT ADEQUATE TO TREAT THE PATIENT FOR A MAXIMUM OF SEVENTY-TWO HOURS WITH NOT MORE THAN TWO SEVENTY-TWO HOUR CYCLES WITHIN ANY FIFTEEN DAY PERIOD.

3. A CONTROLLED SUBSTANCE SAMPLE.

4. THE WHOLESALE DISTRIBUTION OF A SCHEDULE II, III OR IV CONTROLLED SUBSTANCE. FOR THE PURPOSES OF THIS PARAGRAPH, "WHOLESALE DISTRIBUTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-1981.

5. A FACILITY THAT IS REGISTERED BY THE DRUG ENFORCEMENT ADMINISTRATION AS A NARCOTIC TREATMENT PROGRAM AND THAT IS SUBJECT TO THE RECORD KEEPING PROVISIONS OF 21 CODE OF FEDERAL REGULATIONS SECTION 1304.24.

36-2609. <u>Use of information; civil immunity</u>

A. AN INDIVIDUAL OR ENTITY THAT COMPLIES WITH THE REPORTING REQUIREMENTS OF SECTION 36-2608 IS NOT SUBJECT TO CIVIL LIABILITY OR OTHER CIVIL RELIEF FOR REPORTING THE INFORMATION TO THE BOARD.

B. UNLESS A COURT OF COMPETENT JURISDICTION MAKES A FINDING OF MALICE OR CRIMINAL INTENT, THE BOARD, ANY OTHER STATE AGENCY OR ANY PERSON OR ENTITY IN PROPER POSSESSION OF INFORMATION PURSUANT TO THIS ARTICLE IS NOT SUBJECT

TO CIVIL LIABILITY OR OTHER LEGAL OR EQUITABLE RELIEF FOR ANY OF THE FOLLOWING ACTS OR OMISSIONS:

1. FURNISHING INFORMATION PURSUANT TO THIS ARTICLE.

2. RECEIVING, USING OR RELYING ON, OR NOT USING OR RELYING ON, INFORMATION RECEIVED PURSUANT TO THIS ARTICLE.

3. INFORMATION THAT WAS NOT FURNISHED TO THE BOARD.

4. INFORMATION THAT WAS FACTUALLY INCORRECT OR THAT WAS RELEASED BY THE BOARD TO THE WRONG PERSON OR ENTITY.

36-2610. Prohibited acts; violation; classification

A. A PERSON WHO IS SUBJECT TO THIS ARTICLE AND WHO FAILS TO REPORT REQUIRED INFORMATION PURSUANT TO SECTION 36-2608 IS GUILTY OF A CLASS 2 MISDEMEANOR.

B. A PERSON WHO IS SUBJECT TO THIS ARTICLE AND WHO KNOWINGLY FAILS TO REPORT REQUIRED INFORMATION TO THE BOARD IN VIOLATION OF SECTION 36-2608 IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO IS SUBJECT TO THIS ARTICLE AND WHO KNOWINGLY REPORTS INFORMATION TO THE BOARD THAT THE PERSON KNOWS TO BE FALSE OR FRAUDULENT IS GUILTY OF A CLASS 6 FELONY.

D. A PERSON WHO IS GRANTED ACCESS TO THE INFORMATION MAINTAINED BY THE BOARD AS REQUIRED BY THIS ARTICLE AND WHO KNOWINGLY DISCLOSES THE INFORMATION IN A MANNER INCONSISTENT WITH A LEGITIMATE PROFESSIONAL OR REGULATORY PURPOSE, A LEGITIMATE LAW ENFORCEMENT PURPOSE, THE TERMS OF A COURT ORDER OR AS OTHERWISE EXPRESSLY AUTHORIZED BY THIS ARTICLE IS GUILTY OF A CLASS 6 FELONY.

36-2611. Program termination

THE PROGRAM ESTABLISHED BY THIS CHAPTER ENDS ON JULY 1, 2017 PURSUANT TO SECTION 41-3102.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.