

CHAPTER 24
PHARMACY

ARTICLE 1
IN GENERAL

33-24-101. Short title; definitions.

(a) This act means W.S. 33-24-101 through 33-24-301 and shall be known as the "Wyoming Pharmacy Act".

(b) As used in this act:

(i) "Direct supervision" means that a licensed pharmacist shall be physically present and capable of observing the actions of a pharmacy technician except at telepharmacies where video oversight is maintained;

(ii) "Telepharmacy" means a site located within a medical clinic or community health center that is remote from but under the active control and supervision of a licensed pharmacist, and that is staffed during hours of operation by a certified pharmacy technician or registered pharmacy intern;

(iii) "Collaborative pharmaceutical care" means a pharmacist working in collaboration with physicians and other medical providers authorized to prescribe medications;

(iv) "Unprofessional conduct" means:

(A) Dispensing a drug or brand of drug in filling a prescription which differs from that specified by the prescription, without authority of the issuer of the prescription, regarding the patient's name, drug, strength, quantity, directions or number of authorized refills;

(B) Obtaining any fee by fraud or misrepresentation;

(C) Willfully betraying patient confidences, provided a pharmacist may provide otherwise confidential patient information to other licensed health care professionals treating the patient;

(D) Employing directly or indirectly any student, any unlicensed pharmacy technician or any unlicensed pharmacist to practice pharmacy unless authorized by this act;

(E) Advertising in a misleading, false or deceptive manner;

(F) Filling a prescription which is more than two (2) years old;

(G) Filling a prescription without reasonable inquiry and confirmation of its validity if there are reasonable grounds to doubt the current existence of a doctor-patient relationship between the prescriber and the customer seeking to obtain the drug;

(H) Filling a prescription with a drug that is past the expiration date provided by the manufacturer or supplier of the drug or other competent authority;

(J) Filling a prescription with drugs which have not been refrigerated as recommended by the manufacturer or supplier of the drugs or by other competent authority; or

(K) Other actions defined by rule and regulations as relevant to the pharmacist's professional character.

33-24-102. State board of pharmacy; generally.

(a) There is created a state board of pharmacy whose duty is to carry out the purposes and to enforce the provisions of this act. The board shall consist of seven (7) voting members consisting of four (4) pharmacists, one (1) physician, one (1) dentist or veterinarian and one (1) member of the public and one (1) ex officio pharmacy technician, who shall be appointed by the governor, by and with the advice and consent of the senate. Members of the now existing board of pharmacy shall continue in office as voting members as if regularly appointed under this act. Their terms shall expire in accordance with their original appointments and be filled in accordance with the provisions of W.S. 28-12-101. The ex officio member shall have no vote and shall have no part of licensing procedures or license suspension or revocation actions.

(b) The term for board members shall be six (6) years, and shall expire on March 1. Each member, unless removed, shall serve until his successor is appointed and qualified. Effective July 1, 1979, appointments and terms shall be in accordance with W.S. 28-12-101 through 28-12-103.

(c) The board shall promulgate reasonable rules and regulations as necessary to carry out the purposes and enforce the provisions of this act.

33-24-103. State board of pharmacy; qualifications of members; limitation on terms; prohibited affiliations.

(a) A pharmacist who is currently licensed as provided in this article and actively engaged in the practice of pharmacy in Wyoming shall be eligible to be a voting member of the board of pharmacy if the pharmacist is a United States citizen and resident of Wyoming and at the time of appointment has been legally qualified to practice and engaged in the active practice of pharmacy in the state continuously for at least five (5) years.

(b) A dentist, physician or veterinarian who is currently licensed pursuant to chapter 15, 25 or 30 of this title shall be eligible to be a voting member of the board of pharmacy if the dentist, physician or veterinarian is a United States citizen and resident of Wyoming and at the time of appointment has been licensed to practice and engaged in the active practice of dentistry, medicine or veterinary medicine in this state continuously for at least five (5) years.

(c) A person shall be eligible for appointment as a voting member of the board representing the public if at the time of appointment the person is a United States citizen and resident of Wyoming and at the time of appointment has resided in this state continuously for at least five (5) years.

(d) A pharmacy technician licensed pursuant to article 3 of this chapter and actively practicing as a pharmacy technician in Wyoming shall be eligible to be an ex officio member of the board if the person is a United States citizen and a resident of this state and at the time of appointment has been employed as a pharmacy technician in Wyoming continuously for at least five (5) years.

(e) No member shall be appointed to, or serve, more than two (2) successive terms.

(f) No member shall be connected with a school or college of pharmacy in a professional or executive capacity.

(g) The term of any person appointed to the board pursuant to subsections (a) through (d) of this section shall expire immediately if the person no longer meets the eligibility criteria specified in the subsection under which the person was appointed.

33-24-104. State board of pharmacy; vacancies.

Any vacancy upon the board caused by the disqualification, resignation, death or removal of a member shall be filled by the governor by appointment for the unexpired term of the vacated

position. Appointment to fill a vacancy shall be made within ninety (90) days after the occurrence of the vacancy.

33-24-105. State board of pharmacy; oath or affirmation of members.

Each member of the board hereinafter appointed shall, before entering upon the duties of his office, take and subscribe an oath or affirmation that the member will support the constitution and the laws of the United States and the state of Wyoming, and that the member will faithfully perform the duties as a member of the state board of pharmacy examiners of the state.

33-24-106. State board of pharmacy; president, vice-president and secretary-treasurer; common seal; meetings; quorum.

The board shall elect from its members a president, vice-president, and a secretary-treasurer. The board shall have a common seal. The board shall meet at least three (3) times a year, and more often if necessary, for the examination of applicants for registration and other business of the board at the times and places as shall be designated by the president or the board. Meetings of the board shall be at the call of the president and the secretary-treasurer or a majority of the board. A regular meeting of the board shall be held in the month of June of each year. A majority of the board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to public inspection.

33-24-107. State board of pharmacy; removal of members.

The governor may remove any member as provided in W.S. 9-1-202.

33-24-108. State board of pharmacy; creation of indebtedness; compensation of members; employment and compensation of staff; legal counsel.

(a) The board of pharmacy shall not create any indebtedness on behalf of the state except as provided in this section.

(b) Out of the fees collected and funds assessed by the board, each of the members of the board shall receive compensation at the rate of fifty dollars (\$50.00) for each full day actually engaged in the duties of his office and shall be reimbursed for per diem and mileage as provided for employees of the state. Per diem and mileage expenses shall be paid from the board's account.

(c) The board may employ inspectors, chemists, agents, clerical help and other staff and personnel it determines necessary and may determine their salaries. All employees shall be reimbursed for per diem and mileage expenses as provided for state employees.

(d) The board may engage the services of legal counsel with the approval of the attorney general, to be paid from funds collected under this act [§§ 33-24-101 through 33-24-301].

33-24-109. Disposition of moneys received and collected.

All monies shall be received and collected as provided by law. The state treasurer shall place the money in a separate account. The money shall only be paid out upon a lawful voucher properly accompanied by two (2) signatures authorized by the board showing that the expense has been actually and properly incurred in the performance of the duties devolved upon the board. Upon presentation of the voucher and certificate, the auditor shall draw his warrant upon the treasurer against the account in favor of the proper person. No warrant shall be drawn unless and until there are sufficient monies in the account to pay the same. The account shall only be drawn upon to pay the necessary compensation and expenses of the board, and such expenses as may be necessary to carry out and execute the provisions of this act.

33-24-110. Administration of oaths.

The presiding officer of the board and the secretary are empowered to administer oaths in connection with investigations by and the duties of the board.

33-24-111. Report to governor.

The board shall, as required by W.S. 9-2-1014, report to the governor relative to its proceedings.

33-24-112. Fees for examinations, reexaminations, license renewals and registration renewals; late fees.

(a) The board shall determine each year the fees to be collected for examinations, reexaminations, license renewals and registration renewals based upon annual normal operating expenses, including late fees to be collected for failure to pay a license or renewal fee by the deadline established by the board, provided that:

(i) Examination and reexamination fees shall not exceed five hundred dollars (\$500.00) plus the amount charged by the

National Association of Boards of Pharmacy to take the examinations;

(ii) License and registration renewals shall not exceed two hundred fifty dollars (\$250.00);

(iii) Pharmacy licenses and renewals shall not exceed five hundred dollars (\$500.00);

(iv) Licenses and renewals for manufacturers or distributors of oxygen shall not exceed one hundred dollars (\$100.00);

(v) Late fees for licenses and renewals shall not exceed three hundred dollars (\$300.00); and

(vi) Drug distributor licenses and renewals shall not exceed one thousand dollars (\$1,000.00).

(b) Repealed By Laws 1996, ch. 42, § 2.

(c) Repealed By Laws 1996, ch. 42, § 2.

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

(a) Any pharmacy located in this state which dispenses, mails or in any manner delivers controlled substances or dangerous drugs or devices in this state pursuant to a prescription or provides pharmaceutical care in this state shall:

(i) Submit a license application to the board on a form prescribed by the board and pay the license fee established by the board in its rules and regulations. Where pharmaceutical operations are conducted at more than one (1) location, each location shall be separately licensed;

(ii) Notify the board of the occurrence of any of the following:

(A) Permanent closing of the pharmacy;

(B) Change in pharmacy ownership, name, management, location or pharmacist in charge;

(C) Conviction of any pharmacy owner or employee for violation of any state or federal drug law;

(D) Any substantial theft or loss of dangerous drugs, controlled substances or medical devices;

(E) Any other matter required to be reported by rule and regulation of the board.

(b) The license shall be displayed in a conspicuous place in the pharmacy for which it is issued, and shall be renewed annually on or before June 30 by submitting a renewal application to the board.

(c) It is unlawful for any person or commercial operation to operate a pharmacy unless a license has been issued to the operator by the board of pharmacy.

(d) The board may deny, suspend, revoke or refuse to renew a license issued under the section, may issue a letter of admonition to a resident pharmacy licensee and may assess an administrative penalty, not to exceed two thousand dollars (\$2,000.00) per violation, against a resident pharmacy licensee on any of the following grounds:

(i) Failure to comply with any requirement of this chapter or the Wyoming Controlled Substances Act;

(ii) Failure to comply with rules and regulations of the board;

(iii) Conviction of a pharmacy owner, pharmacist in charge, staff pharmacist or pharmacy technician for a felony under any state or federal law, if the conviction is related to the practice of pharmacy;

(iv) Obtaining any remuneration by fraud, misrepresentation or deception;

(v) Suspension or revocation of a pharmacy license in any other state;

(vi) Knowing submission of false, misleading or fraudulent information to the board in connection with an initial or renewal application for a resident pharmacy license;

(vii) Purchase or receipt of a dangerous drug, controlled substance or medical device from a source other than a manufacturer, wholesaler or pharmacy licensed by the board;

(viii) Purchase or receipt of a dangerous drug, controlled substance or medical device that is not approved by the federal drug administration;

(ix) Keeping the pharmacy open for business without a licensed pharmacist in charge on site;

(x) Allowing a person who is not licensed by the board to perform duties as a pharmacist, pharmacy technician or pharmacy technician in training.

(e) Before any final adverse administrative action is taken against a pharmacy licensee, the licensee 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.

(f) 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.

33-24-114. Required pharmacy facilities, utensils and drugs.

To secure and retain a license, a pharmacy shall be equipped with facilities, apparatus, utensils and stock of drugs and medicines sufficient to permit the prompt and efficient compounding of prescriptions and shall be maintained in a sanitary and orderly manner. The minimum facilities, apparatus, utensils and stock of drugs and medicines shall be prescribed by the board of pharmacy.

33-24-115. Unlawful sale of licenses.

It shall be unlawful for any member or members of the state board of pharmacy to sell or offer for sale any license contrary to the provisions of this act [§§ 33-24-101 through 33-24-301]. A conviction thereof will constitute an abuse of official power and render such member ineligible for continued membership on the board and create a vacancy in his position.

33-24-116. Qualifications of applicants for licensure as a pharmacist by examination.

(a) Any person seeking licensure by examination to practice pharmacy in this state may make application in writing to the board. The applicant shall:

(i) Submit an application in the form and containing information as prescribed by the board;

(ii) Have attained the age of majority;

(iii) Be of good moral character;

(iv) Have graduated and received the first professional undergraduate degree from a college or school of pharmacy that has been approved by the board or have graduated from a foreign college of pharmacy. Graduates from a foreign college of pharmacy shall have completed a transcript verification program, taken and passed a college of pharmacy equivalency exam and completed a communication ability test as provided in board regulations;

(v) Have completed an internship or other program that has been approved by the board or demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or exceeds the minimum internship requirements specified in board regulations;

(vi) Have successfully passed an examination or examinations approved by the board;

(vii) Pay the fees specified in board regulations for the examination and any related materials;

(viii) 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.

33-24-117. Written and practical examination required.

The applicant shall pass a written and practical examination, which has been adopted by the board, in a manner satisfactory to a reasonable board. The written examination shall be, so far as the board shall deem practicable, on such subjects as are prescribed in the curriculum and taught in the accredited colleges and universities which offer courses of study leading to the degree above described and required, on the ethical and practical aspects of the practice of pharmacy which will confront a successful applicant in the practice of the profession in Wyoming, and on the laws and rules relating thereto. The practical examination shall be held at a place designated by the board in the manner prescribed by it.

33-24-118. Registration of applicant; issuance of license; contents of license or certificate of registration.

Upon an applicant passing the written and practical examinations the board shall cause his name and residence to be registered in a book kept by it for that purpose; and shall issue to the applicant a license as evidence of his eligibility to practice pharmacy. The license, or certificate of registration shall contain, along with the other advisory information, the name of the person to whom issued, the date of issuance, and a special registration number designed by the board for exclusive identification of the registrant.

33-24-119. Reexamination fees; no refund of fees; notice of results of examination; application for reexamination.

(a) All reexamination fees shall be the same as the current fee for the initial examination to be paid to the secretary of the board. Before such examination is had, the fee must be paid, and in no case shall the examination or reexamination fee be refunded.

(b) The applicant shall be informed within a reasonable time if he passed or failed to pass the examination. A notification as aforesaid shall be made by mail to the address furnished therefor by applicant in his application.

(c) An applicant who fails in his examination shall have the privilege, if he so desires, of applying to the board for a reexamination at the next scheduled examination meeting. This application shall be made in writing and shall be accompanied with the proper fee.

33-24-120. Record book; records therefrom as prima facie evidence.

The board shall keep a record book in which shall be recorded the names and addresses and pertinent information of all applicants and such other matters as shall afford a full record of its activities; the records or transcripts therefrom, duly certified by the secretary of the board, with the seal of the board attached, shall be prima facie evidence before all the courts of this state of the entries therein contained.

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.

(a) On or before December 31 of each year, any pharmacist licensed to practice pharmacy in this state shall transmit to the secretary of the board his signature, registration number and address together with proof of compliance with subsection

(d) of this section, the annual fee determined by the board and the relevant information pertaining to criminal, substance abuse, professional liability and licensure history. Upon receipt and compliance with all requirements, the secretary shall issue a renewal license certificate.

(b) A late fee as provided by W.S. 33-24-112(a)(v) shall be charged to any licensee failing to renew his license by December 31.

(c) If the licensee fails to secure the renewal certificate before December 31, the license to practice expires 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 not later than March 31 following expiration of the license.

(d) The board may require that any person applying for renewal in accordance with subsection (a) of this section shall satisfactorily complete not less than six (6) nor more than fifteen (15) contact hours or not less than three-fifths (3/5) of one (1) continuing education unit nor more than one and one-half (1 1/2) continuing education units of approved continuing pharmaceutical education courses each year. For purposes of this subsection, one (1) continuing education unit is equivalent to ten (10) contact hours. No hours or units used for one (1) year shall apply to any other year. The board may allow hours completed in one (1) year to be credited to another year. The board shall promulgate rules and regulations necessary to administer this subsection and may reduce or make exception to the requirements of this subsection for the initial year of application and for emergency or hardship cases. The board may require a person licensed as an inactive pharmacist, who seeks to be licensed as an active pharmacist, to:

(i) Provide proof of meeting the continuing education requirements for each year the person was licensed as an inactive pharmacist; or

(ii) Complete the continuing education requirements for each year, up to a maximum of five (5) years, the person was licensed as an inactive pharmacist.

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

(a) The license and registration of any pharmacist may 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 or issue a summary suspension for any of the following causes:

(i) Conviction of a felony or high misdemeanor involving moral turpitude, in which case the record of conviction or a copy thereof certified by the clerk or judge of the court in which the conviction is had shall be conclusive evidence;

(ii) For renting or loaning to any person his or her license or diploma to be used as a license or diploma for such person;

(iii) For unprofessional conduct;

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

(v) For knowingly submitting false or misleading information to the board or its representative regarding the professional practice of the internship or professional practice of pharmacy by any other person;

(vi) Willful violation of any provision of this chapter or any willful violation of any of the provisions of the Wyoming Controlled Substances Act of 1971 or any amendments thereto;

(vii) Willful violation of any rules or regulations promulgated by the board in accordance with this chapter or the Wyoming Controlled Substances Act of 1971;

(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;

(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

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

(b) If a person accused of violating subsection (a) of this section admits the violation, or the board finds the causes alleged to be true and determines that a letter of admonition or revocation or suspension of a license or registration is an inappropriate remedy, the board may assess an administrative

penalty against that person of not more than two thousand dollars (\$2,000.00) for each violation of this act or rule promulgated under this act, to be paid into the county treasury to the credit of the public school fund of the county in which the violation occurred. In addition to the penalty imposed under this subsection, the board may impose a license probation period upon that person, a violation of which is grounds for license revocation or suspension under subsection (a) of this section.

(c) The board may summarily suspend the license of any person holding a pharmacist license without a hearing if the board finds probable cause to believe that there is imminent danger to the public health or safety. The board may meet by telephone to consider summarily suspending a license if a quorum of the board is not available to meet in person under exigent circumstances. Summary suspension shall occur if the board determines there is probable cause to believe that continued practice by the licensee constitutes an imminent danger to the public health or safety. Proceedings for a disciplinary hearing shall be instituted simultaneously with the summary suspension. If the board does not commence the disciplinary hearing within thirty (30) days of the suspension order, the suspension shall be automatically vacated. At the written request of the suspended licensee in order to prepare for a hearing, the thirty (30) day period may be extended and the temporary suspension continued for an additional period not to exceed thirty (30) days.

33-24-123. Revocation or suspension of license and registration; proceedings; informal resolution.

(a) Except as provided by subsections (b) and (c) of this section, proceedings under W.S. 33-24-122 may be taken by the board from matters within its knowledge, or may be taken upon the information of others; provided however, that if the informant is a member of the board, the other members of said board shall constitute the board for the purpose of finding judgment of the accused. The board shall, if it deems the charge sufficient, give notice by mail to the accused of facts or conduct which warrant the intended action, and afford the accused a hearing, as provided by law. All hearings or proceedings hereunder shall be conducted in accordance with the procedures prescribed by the Wyoming Administrative Procedure Act. If the accused does not appear, the board may proceed and determine the accusation in his absence. If the accused pleads guilty, or, upon the hearing the board shall find the causes alleged, or any of them to be true, it may proceed to judgment and may either revoke his registration and license, or merely revoke his license or suspend it for a specified period of time,

or condition any of such sanctions on such future active or passive conduct of the offender as the board shall determine is reasonable, provided that such remedies are not exclusive and shall be in addition to other remedies provided by law. Upon revocation of any registration or license, the fact shall be noted upon the records of the board of pharmacy and the license shall be marked as cancelled upon the date of its revocation.

(b) Notwithstanding subsection (a) of this section, the executive director may subject to board approval and upon mutual agreement with a licensee, informally resolve violations of W.S. 33-24-122(a) and impose administrative penalties authorized under W.S. 33-24-122(b) in lieu of the proceedings specified under subsection (a) of this section. If the board disapproves the agreement and informal resolution, the agreement shall not:

- (i) Constitute any admission by the licensee;
- (ii) Be admissible in any subsequent proceeding under this act;
- (iii) Prohibit the director from filing a formal complaint;
- (iv) Prohibit the licensee from contesting or objecting to a formal complaint filed by the director or from appealing the decision of the board.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. Notwithstanding subsection (a) of this section, no appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-24-124. Persons deemed practicing pharmacy.

Any person shall be deemed to be practicing pharmacy within the meaning of this act who provides collaborative pharmaceutical care or prepares, or compounds, or processes, or packages, or repackages, or labels, or dispenses, or sells, or offers for sale, at retail or in connection with operation of a health-care facility, any dangerous drugs, medicines, poisons, chemicals, narcotics, or prescriptions, which are identified as such in accordance with this act.

33-24-125. Dangerous substances; generally.

(a) Dangerous drugs, medicines, poisons, chemicals, and narcotics include only those drugs, chemicals, poisons, medicines and other substances which are intended for use by man:

(i) Which are habit forming; or

(ii) Which because of toxicity or other potentiality for harmful effect, or method of use, or the collateral measures necessary to its use, are not safe for use except under the supervision of a practitioner licensed by law to prescribe such substances; or

(iii) Which are designated as dangerous substances under the provisions of W.S. 33-24-131; and which are named and thereby included on a list of dangerous drugs, medicines, poisons, chemicals and narcotics compiled by the board of pharmacy and by them filed with the department of health. The board will provide a complete current copy of such list to all persons requesting same at cost.

33-24-126. Dangerous substances; compilation of list.

In compiling such list of dangerous substances, and determining which substances shall be included thereon, and in adding substances thereto, and in deleting substances therefrom, the board shall consider all information which shall come to its attention from reasonably reliable sources and shall compile the list making use of such information about, experience with, and knowledge of (or lack of knowledge of or about) each substance and shall include, add or delete each substance as the accumulation of such information, experience, knowledge, or lack thereof, shall indicate according to the definitions and guidelines provided in W.S. 33-24-125.

33-24-127. Adoption of certain publications by reference; list of dangerous substances open to public inspection; petition to add or delete substances from list.

(a) The board is authorized to adopt, by reference if feasible, in whole or in part the United States Pharmacopoeia, the National Formulary, and supplements thereto and later editions thereof, and lists of drugs the traffic in which is restricted by federal law, provided always:

(i) That a complete copy of the current list shall be always open to the public inspection at the department of health; and

(ii) Any citizen may petition the board in writing to add or to delete any substance to or from the list, which petition shall be considered by the board after providing the petitioner reasonable notice and opportunity to be heard thereon. The board may consider treatises and scientific reports without requiring formal foundations or proofs thereof, and may accept or reject the conclusions therein or deductible therefrom as deemed best in the light of the professional knowledge and experience of the individual members of the board.

33-24-128. Appeal from decisions of board as to list of dangerous drugs.

Appeal from decisions of the board relating to composition of, additions to or deletions from the list of dangerous drugs shall be had initially to the advisory council to the department of health, the decision of which advisory council shall be final unless appealed by either the pharmacy board or the petitioner to the courts of this state. All appeals shall be conducted as provided by the Wyoming Administrative Procedure Act. No board shall be concluded by decisions of any previous board as to a particular substance, provided that the board shall not be obliged to consider the same substance more than once during any twelve (12) month period.

33-24-129. Exempted professions.

This act [§§ 33-24-101 through 33-24-301] does not apply to physicians, dentists, veterinarians, podiatrists, optometrists or osteopaths licensed by law to practice their professions within this state or to other persons authorized by federal law and state law to treat sick and injured persons in Wyoming and to use controlled substances in the course of treatment.

33-24-130. Exemptions; administration of drugs and medicine.

Unless otherwise provided by law, the provisions of this act do not apply to administration of drugs and medicines, or to persons engaged in the administration of drugs and medicines. Administration of drugs and medicines, for the purpose of this exclusion, is hereby defined as actual, personal distribution to, or injection in, or application to a particular human being, of substances or material which has already been prepared, selected, measured, packaged, and labeled, or otherwise specifically identified by a person qualified to do so under the terms of this act.

33-24-131. Exemptions; sale of certain articles.

The provisions of this act [§§ 33-24-101 through 33-24-301] shall not apply to the sale at wholesale or sale by any method at retail of economic poisons, medical and dental supplies, cosmetics, dietary foods, or nonnarcotic, nonprescription, prepackaged medicinal preparations contained in distinctive and original unbroken containers, when such medicinal preparations are identified by and sold under a trade name of the manufacturer or primary distributor thereof and are sold or offered for sale to the general public, if such articles meet the requirements of state and federal food, drug and cosmetic laws; provided however, that notwithstanding the above, any drug, medicinal preparation, or substance for use by man which is determined by the state board of pharmacy, after notice to the manufacturer or primary distributor thereof, and opportunity to be heard pursuant to the provisions of the Wyoming Administrative Procedure Act [§§ 16-3-101 through 16-3-115], as having a depressant or stimulant effect on the central nervous system or its hallucinogenic effect, or as habit forming, or as a drug or product which, because of its toxicity or other potentiality for harmful effect, or method of use, or the collateral measures necessary for such use is not safe for use except under the supervision of a practitioner licensed by law to prescribe such substances, may be designated by rule as a dangerous drug which shall be restricted to sale on prescription of a practitioner licensed by law to prescribe such substances.

33-24-132. Existing pharmacists exempted; license renewals.

Persons who hold certificates of registration as pharmacists granted by the Wyoming state board of pharmacy at the effective date of this act are not required to register anew pursuant to this act [§§ 33-24-101 through 33-24-301], but shall apply for and secure annual license renewals as provided for herein.

33-24-133. Association with boards of pharmacy of other jurisdictions.

In order to be informed and to determine the status of boards of pharmacy of other jurisdictions which desire to effect arrangements for reciprocal registration of pharmacists, and in order to also be advised regarding fitness of applicants, and of the progress and changes in pharmacy throughout the country, the board may annually select one (1) of its members to meet with like representatives from other jurisdictions, and may join in creating and maintaining an association for such mutual ends, and in its discretion the board may contribute such information as it possesses which is useful to such aims and objects. Additionally, the board may subscribe for and secure the services of associations engaged in the compilation of pharmaceutical information, knowledge and progress, specially

adapted to secure excellence and efficiency in the work of the board.

33-24-134. Reciprocity.

(a) The board, in its sole discretion, may license as a pharmacist in this state without examination, any person who proposes to practice pharmacy in this state who is duly licensed by examination in some other state. An applicant for a license pursuant to this section shall:

(i) Submit a written application in the form and containing information as prescribed by the board;

(ii) Meet the qualifications specified in W.S. 33-24-116(a)(ii) through (iv);

(iii) Have engaged in the practice of pharmacy for a period of at least one (1) year or have met the requirements of W.S. 33-24-116(a)(v) within one (1) year immediately preceding the date of application;

(iv) Have been a licensed pharmacist by examination in another state;

(v) Submit evidence that the applicant's license to practice pharmacy in any other state has not been suspended, revoked or otherwise restricted for any reason other than nonrenewal or the failure to obtain the required continuing education credits;

(vi) Pay the fees specified in board regulations for licensure by reciprocity;

(vii) 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;

(viii) Have passed an examination regarding applicable federal and state statutes and regulations relating to the practice of pharmacy in Wyoming.

(b) Repealed By Laws 2007, Ch. 211, § 2.

(c) Repealed By Laws 2007, Ch. 211, § 2.

(d) Repealed By Laws 2007, Ch. 211, § 2.

(e) The board may issue a temporary pharmacist license, provided the applicant has met those requirements in paragraphs (i) through (vii) of 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 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.

33-24-135. Internship.

(a) The internship or practical experience requirement for registration as a pharmacist in this state shall consist of no more than two thousand (2,000) and no less than one thousand two hundred (1,200) hours experience in a pharmacy or related setting. Hours shall be accumulated after the completion of the first professional year in an approved college or school of pharmacy or, for those applicants who have graduated from a foreign college of pharmacy, completed a transcript verification program, taken and passed a college of pharmacy equivalency exam program and completed a communication ability test as provided in board regulations. Hours of internship experience accumulated may be determined by the board.

(b) The board is hereby empowered to promulgate and enforce such reasonable regulations as may from time to time appear necessary to provide that interns shall receive broad training in all aspects of the profession during internship, and that each intern shall keep a record thereof during a portion of the training reflecting his work and experience and whether it conforms to the requirements of the board.

(c) The service and experience rendered and gained during internship must be predominantly related to the preparing, compounding, processing, packaging, labeling, and dispensing of the restricted substances, selling or offering the same for sale at retail, keeping records in regard thereto, and making reports required by law in regard thereto, all under the personal guidance and supervision of a preceptor.

(d) Each prospective intern shall be licensed by the board upon payment of a fee and shall register in writing immediately upon beginning any period of service giving the intern's name and address, address of the pharmacy at which service is undertaken and the name, address and registration number of each preceptor at that place. Upon terminating each period of service, the intern shall immediately notify the board in writing. The first notice of undertaking internship shall

include a complete statement of the intern's qualifications therefor, attested to under oath by the intern. Forms therefor will be provided by the board. Under its regulations the board may provide for consideration and acceptance of internship served in other jurisdictions.

(e) The board may issue a letter of admonition or suspend or revoke a pharmacy intern's license for any:

(i) Willful violation of any provision of this chapter or the Wyoming Controlled Substances Act of 1971;

(ii) Willful violation of any rule or regulation promulgated pursuant to this chapter or the Wyoming Controlled Substances Act of 1971;

(iii) Conviction of a felony or misdemeanor involving moral turpitude;

(iv) Action which threatens the public health, safety or welfare; or

(v) Knowing submission of false or misleading information to the board in the application for an initial or renewal license.

33-24-136. Filing written memorandum of prescription; labels generally; prescription defined; counseling and patient profiles.

(a) Every person who prepares, compounds, processes, packages or repackages, dispenses, fills or sells or offers for sale, at retail or in connection with operation of a health care facility, any prescription, shall place the written memorandum of the prescription in a separate file marked and kept for that purpose, and shall affix a label to the container in which the prescribed substance is dispensed bearing the name and address of the pharmacy and initials of the dispensing pharmacist, or of the preceptor if the dispenser is an intern, the date on which the prescription is filed in the pharmacy's files, the name of the person who prescribed the substance, the name of the patient or customer for whom the prescription was made and directions for use by the patient as directed on the prescription by the prescriber.

(b) "Prescription" means an order for medication by a person licensed and authorized by the state board of medicine, the state board of dental examiners, the state board of nursing, the state board of registration in podiatry, the state board of examiners in optometry or the state board of veterinary medicine

which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user. Each prescription memorandum shall be maintained and open for inspection by agents of the board for a period of two (2) years from the date it is filed.

(c) Pharmacists shall offer to and shall counsel patients if requested, concerning and in conjunction with drugs dispensed pursuant to a new prescription.

(d) Pharmacies shall maintain patient profile records of the dispensing of drugs pursuant to a prescription.

(e) Notwithstanding subsection (a) of this section, if, in the opinion of the pharmacist, an emergency exists whereby the prescriber of the prescription cannot be contacted for authorization and there is a need to refill the prescription, the pharmacist may provide up to a seventy-two (72) hour supply, or the smallest available unit, of the previously prescribed drug, except a controlled substance. Nothing in this subsection shall be construed to require a pharmacist to refill the prescription in the absence of authorization from the prescriber.

33-24-137. Sale of poison.

(a) It shall be unlawful:

(i) For any person, either on his own behalf or while in the employ of another, to sell or give away any poison, as designated by the board of pharmacy without first recording in a book to be kept for that purpose, with an indelible pencil or ink, the date, the name and address of the person to whom, and the amount and kind of poison delivered, except when such poison is sold on the written prescription of [an] osteopath, physician, dentist or veterinarian;

(ii) To give a false name and address to be recorded;

(iii) For any person having custody of such record book to refuse to produce it on demand for the inspection of any authorized representative of the board of pharmacy or other duly authorized officer.

33-24-138. "Poison" labels.

It shall be unlawful for any person to sell at retail, any poison without affixing to the package or receptacle containing the same, a label conspicuously bearing the word "poison," and

the name and the business address of the seller. Any person selling poison shall satisfy himself that such poison is to be legitimately used. The provisions of this section shall not apply to the sale of poison on a physician's written prescription or in the original package of the manufacturer.

33-24-139. Supervision of preparation of drugs.

No person shall manufacture, make, produce, package, pack or prepare within this state any drugs, medicines, medical supplies, chemicals or poisons, for human treatment or medication except under the personal and immediate supervision of a registered pharmacist, chemist, pharmaceutical chemist or such other person who may be approved by the board after investigation and determination that he is qualified by scientific or technical training or experience to perform the duties of supervision as may be necessary to protect the public health and safety.

33-24-140. Code of ethics.

The board shall propose, and with the advice of the practicing licensees in this state shall adopt and from time to time amend or revise, a comprehensive code of ethics for the profession of pharmacy the review of which shall become obligatory on all applicants for license or renewal thereof.

33-24-141. Use of letters "R. Ph." or word "pharmacist".

Whenever any person shall append the letters "R.Ph." or word "pharmacist" or such similar designation to his name in any way, for advertising, or upon any card, stationery, door or sign, or occasion either of the same to be done, the same shall be prima facie evidence that such person is engaged in the practice of pharmacy and subject to the regulations and convictions and penalties of this act [§§ 33-24-101 through 33-24-301].

33-24-142. Penalty.

Any person who practices pharmacy, as defined in this act [§§ 33-24-101 through 33-24-301], without being properly qualified and licensed as required, or who violates any of the other provisions of this act shall be subject to criminal prosecution, and upon conviction may be fined not more than one hundred dollars (\$100.00), or imprisoned for not more than thirty (30) days, or both. Each separate violation of this act shall constitute a separate offense; provided, that upon a second or subsequent conviction, such person shall be subject to a fine of not more than five hundred dollars (\$500.00), and imprisonment of not more than six (6) months.

33-24-143. Prosecutions.

It shall be the duty of the district attorney for the county where the violation occurs to attend to the prosecution of all criminal complaints made under this act, both upon the trial in the circuit court where the complaint may be made, and also upon hearings in the district court, either upon such complaint, or upon the information or indictment filed against any person under this act. Nothing in this act shall be construed to prevent the prosecution of any person for violation of this act upon the information of the district attorney directly.

33-24-144. Injunction.

When it appears to the board that any person is violating any of the provisions of this act [§§ 33-24-101 through 33-24-301], the board may, in its own name, bring an action in a court of competent jurisdiction for an injunction, and courts of this state may enjoin any person from violation of this act regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted. Such proceedings shall be prosecuted by the attorney general or, if approved by the attorney general, by private counsel engaged by the board.

33-24-145. Powers and duties of agents, inspectors and board members.

(a) The board, its agents and inspectors may specially, but not exclusively, examine and inspect all activities in this state undertaken in compliance with W.S. 33-24-101 through 33-24-301 which appear to be contrary to or in violation of W.S. 33-24-101 through 33-24-301, to procure enforcement and to check for violations and provide for enforcement of related federal laws and regulations. The inspectors may also determine if practitioners' records are adequately kept in a manner reflecting professional responsibility and may provide legislative recommendations if records are not found to be adequately maintained.

(b) The board, its agents and inspectors shall examine and inspect drug manufacturers, distributors and wholesalers, licensed pursuant to W.S. 33-24-153.

33-24-146. Citation.

This act is known and may be cited as the "Wyoming Generic Drug Substitution Act".

33-24-147. Definitions.

(a) As used in this act:

(i) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label or wrapping at the time of packaging;

(ii) "Generically equivalent drug" means a drug that contains identical active ingredients in the identical dosage forms, but not necessarily containing the same inactive ingredients, that meet the identical compendial or other applicable standards of identity, strength, quality and purity, including potency, and, where applicable, content uniformity, disintegration times or dissolution rates, as the prescribed brand name drug, and, if applicable, the manufacturer or distributor holds either an approved new drug application or an approved abbreviated new drug application unless other approval by law or from the Federal Food and Drug Administration is required. A generically equivalent drug shall bear an "AB" or higher rating in the Federal Food and Drug Administration Approved Drug Products with Therapeutic Equivalence Evaluations;

(iii) "Generic name" means the chemical or generic name, as determined by the United States Adopted Names (USAN) and accepted by the Federal Food and Drug Administration (FDA), of those drug products having the same active chemical ingredients;

(iv) "Substitute" means to dispense a generically equivalent product in place of the dangerous substance ordered or prescribed;

(v) "Therapeutically equivalent" means drugs that will provide the same bioavailability or bioequivalence when administered to an individual in the same dosage regimen;

(vi) "This act" means W.S. 33-24-146 through 33-24-151.

33-24-148. Conditions for drug substitution.

(a) Repealed By Laws 2001, Ch. 54, § 2.

(b) Except as limited by W.S. 33-24-149(b) or when the practitioner has clearly indicated substitution is not permitted, a pharmacist may substitute a drug product with the same generic name in the identical strength, quantity, dose and dosage form as the prescribed drug, provided the substituted drug meets all requirements specified in W.S. 33-24-147(a)(ii).

(c) Repealed By Laws 2001, Ch. 54, § 2.

(d) Repealed By Laws 2001, Ch. 54, § 2.

(e) A pharmacist may not substitute a drug product unless it has been manufactured with the following minimum manufacturing standards and practices by a manufacturer who:

(i) Marks capsules and tablets with an identification code or monogram;

(ii) Labels products with their expiration date;

(iii) Maintains reasonable resources for product information;

(iv) Maintains recall capabilities for unsafe or defective drugs.

(f) Repealed By Laws 2001, Ch. 54, § 2.

(g) When a practitioner orally communicates a prescription and prohibits a generic substitution, the pharmacist shall make reasonable efforts to obtain a written prescription from the practitioner with the phrase "brand medically necessary" written on the face of the prescription in his own handwriting.

33-24-149. Drug substitution procedures.

(a) A pharmacist who receives a prescription for a brand name dangerous drug may dispense any generically equivalent drug of the brand name dangerous drug prescribed, unless the prescribing practitioner has clearly indicated substitution is not permitted, if the drug to be dispensed has a lower, regular and customary retail price than the brand name dangerous drug prescribed, as provided in W.S. 33-24-148.

(b) If a physician prescribes a dangerous drug by its generic name, the pharmacist shall dispense the lowest retail cost brand in stock which is generically equivalent as defined in this act.

(c) Except as provided in subsection (e) of this section, when a pharmacist dispenses a substituted drug as authorized by this act, he shall label the prescription container with the name of the dispensed drug. If the dispensed drug does not have a brand name, the prescription label shall indicate the generic name of the drug dispensed.

(d) The national drug code number or the name of the manufacturer or distributor of the generic drug dispensed shall be noted on the prescription memorandum by the pharmacist.

(e) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container except if the prescriber writes "do not label", or words of similar import, on the prescription memorandum or so designates in an oral transmission of the prescription.

33-24-150. Pharmacist's liability.

Any pharmacist who selects the drug product to be dispensed shall assume no greater liability for selecting the dispensed product as would be incurred in filling a prescription for a drug product prescribed by generic name.

33-24-151. Substitution not considered practice of medicine; individual causes of action.

(a) The substitution of any dangerous substance by a registered pharmacist or a registered pharmacy intern under his direct supervision does not under this act constitute the practice of medicine.

(b) This act shall not be construed to deny any individual a cause of action against a pharmacist or his employer for violations of this act, including failure to observe accepted standards of care of the pharmaceutical profession.

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

(a) Any pharmacy located outside this state which ships, mails or delivers, in any manner, controlled substances or dangerous drugs or devices into this state pursuant to a prescription or provides pharmaceutical care to a resident of this state shall be considered a nonresident pharmacy, shall obtain a license from the board, and shall:

(i) Repealed by Laws 2005, ch. 215, § 2.

(ii) Comply with all directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit or registration to conduct the

pharmacy in compliance with the laws of the state in which it is a resident;

(iii) Maintain its records of controlled substances or dangerous drugs or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed;

(iv) Comply with all requirements of the Wyoming Generic Drug Substitution Act;

(v) Submit a license application to the board on a form prescribed by the board and pay the license fee established by the board in its rules and regulations;

(vi) Immediately notify the board of the occurrence of any of the following:

(A) Permanent closing of pharmacy operations;

(B) Change in pharmacy ownership, name, management, location or pharmacist in charge;

(C) Conviction of a pharmacy owner or employee for a felony under any state or federal drug law;

(D) Any substantial theft or loss of dangerous drugs, controlled substances or medical devices;

(E) Any other matter required to be reported by rule and regulation of the board.

(b) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six (6) days per week, and for a minimum of forty (40) hours per week, provide a toll free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(c) A pharmacy applying for licensure under this section shall be charged the fee specified in W.S. 33-24-112(a)(iii).

(d) A nonresident pharmacy license under this section shall be renewed annually on or before June 30 by submitting a renewal application to the board.

(e) The board may deny, suspend, revoke or refuse to renew a license issued under this section, may issue a letter of

admonition to a nonresident pharmacy licensee and may assess an administrative penalty, not to exceed two thousand dollars (\$2,000.00) per violation, against a nonresident pharmacy licensee on any of the following grounds:

(i) Failure to comply with any requirement of the pharmacy practice act of the state of domicile or the Wyoming Controlled Substances Act. Upon a determination by the board's executive director that the pharmacy practice act of the state of domicile is less protective of the public than the provisions of this act and could endanger the public health, safety or welfare, the executive director before any adverse action pursuant to this paragraph shall provide notice of the noncompliance to the nonresident pharmacy and afford a reasonable opportunity to cure the noncompliance;

(ii) Failure to comply with rules and regulations of the board or regulatory body of the jurisdiction in which the pharmacy is located. Upon a determination by the board's executive director that the rules and regulations of the state of domicile are less protective of the public than the provisions of the board's rules and regulations and could endanger the public health, safety or welfare, the executive director before any adverse action pursuant to this paragraph shall provide notice of the noncompliance to the nonresident pharmacy and afford a reasonable opportunity to cure the noncompliance;

(iii) Conviction of a pharmacy owner, pharmacist in charge, staff pharmacist or pharmacy technician for a felony under any state or federal law, if the conviction is related to the practice of pharmacy;

(iv) Obtaining any remuneration by fraud, misrepresentation or deception;

(v) Suspension or revocation of a pharmacy license in any other state;

(vi) Knowing submission of false, misleading or fraudulent information to the board in connection with an initial or renewal application for a nonresident pharmacy license;

(vii) Purchase or receipt of a dangerous drug, controlled substance or medical device from a source other than a manufacturer, wholesaler or pharmacy licensed by the regulatory authority in the state where the pharmacy is located;

(viii) Purchase or receipt of a dangerous drug, controlled substance or medical device that is not approved by the federal drug administration;

(ix) Keeping the pharmacy open for business without a licensed pharmacist in charge on site.

(f) Repealed by Laws 2005, ch. 215, § 2.

(g) It is unlawful for any nonresident pharmacy which is not licensed by the board to advertise its services in this state, or for any person to advertise the pharmacy services of a nonresident pharmacy which has not been licensed by the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions. Any person convicted of violating this subsection shall be subject to the penalties provided by W.S. 33-24-142.

(h) Before any final adverse administrative action is taken against a nonresident pharmacy licensee, the licensee 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 the compulsory attendance of witnesses and may appeal to the first judicial district court located in Laramie county in accordance with the Wyoming Administrative Procedure Act.

33-24-153. Manufacturer or wholesaler registration; requirements for registration; bonds or other security; fees; renewal; denial, revocation or suspension; record keeping; summary orders; administrative penalties; definitions.

(a) Every wholesale distributor who engages in the distribution of prescription drugs in this state shall obtain from the board a drug distributor's license for each distribution location. In addition, every nonresident wholesale distributor who ships prescription drugs into this state shall be licensed by the licensing authority in the state in which the distributor resides. For manufacturers engaged in wholesale distribution of prescription drugs in this state, the provisions of this section that are more stringent than those required by the United States food and drug administration shall not apply. This section shall not apply to resident pharmacies registered under W.S. 33-24-113, nonresident pharmacies registered under W.S. 33-24-152 or to individuals practicing medicine as defined by W.S. 33-26-102(a)(xi)(B) and (E).

(b) Applications for a drug distributor's license under this section shall be made on a form furnished by the board. By

January 1, 2009, current license holders and applicants for licensure under this section 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 for the designated representative for each wholesale drug distributor site.

(c) The fee for a drug distributor's license shall be the fee specified in W.S. 33-24-112(a)(iii).

(d) Repealed By Laws 2007, Ch. 211, § 2.

(e) Every drug distributor's license shall be renewed annually on or before the first day of July.

(f) Any administrative penalty assessed under this section 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.

(g) By January 1, 2009, the board shall require every drug distributor license holder and applicant to submit a bond in the amount of one hundred thousand dollars (\$100,000.00), or other security acceptable to the board such as an irrevocable letter of credit or deposit in a trust account or financial institution, payable to a fund established by the board pursuant to paragraph (h) of this section. The purpose of the bond or other security shall be to secure payment of any fines or penalties imposed by the board and any fees and costs incurred by the board regarding the drug distributor's license which are authorized under state law and which remain unpaid thirty (30) days after liability for the payment is final. The board shall release the bond or security one (1) year after the distributor's license ceases to be valid. The bond or security shall cover all facilities operated by the applicant and licensed by the board. The board may waive the requirement of a bond or other security if:

(i) The drug distributor has previously obtained a comparable bond or other security for the purpose of licensure in another state where the wholesaler possesses a valid license in good standing; or

(ii) The drug distributor is a publicly held company.

(h) The board shall establish a fund, separate from its other accounts, for the deposit of amounts submitted in lieu of a bond pursuant to subsection (g) of this section.

(j) The board shall require each person engaged in wholesale distribution of prescription drugs to establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of the drugs. The records shall include pedigrees for all prescription drugs that are or ever have been distributed outside the normal distribution channel as established by board regulations.

(k) The board shall issue an order to cease distribution of a prescription drug if the board finds that there is probable cause that:

(i) A drug distributor has:

(A) Violated a provision of this section; or

(B) Falsified a pedigree or sold, distributed, transferred, manufactured, repackaged, handled or held a counterfeit prescription drug intended for human or animal use.

(ii) The prescription drug at issue as a result of a violation in paragraph (k)(i)(B) of this section could cause serious adverse health consequences or death; and

(iii) Other procedures would result in unreasonable delay in responding to the dangers posed by the prescription drug at issue.

(m) An order issued by the board pursuant to subsection (k) of this section shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than ten (10) working days after the date of the issuance of the order, on the actions required by the order. If, after providing an opportunity for a hearing, the board determines that inadequate grounds exist to support the actions required by the order, the board shall vacate the order.

(n) The board may deny, suspend, revoke or refuse to renew a license issued under this section, may issue a letter of admonition and may assess an administrative penalty not to exceed those penalties established in paragraph (o) of this section for any of the following acts:

(i) Failure to obtain a license in accordance with this section or operating without a valid license when a license is required;

(ii) The sale, distribution or transfer of a prescription drug to a person who is not authorized to receive the

prescription drug under the law of the jurisdiction in which the person receives the prescription drug;

(iii) Failure to obtain, pass or authenticate a pedigree as required by this section or board rules;

(iv) Providing the board with false or fraudulent records or making false or fraudulent statements regarding the provisions of this section or board rules;

(v) Obtaining or attempting to obtain a prescription drug by fraud, deceit or misrepresentation, or engaging in fraud or misrepresentation in the distribution of a prescription drug;

(vi) Except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved by the United States food and drug administration, the adulteration, misbranding or counterfeiting of any prescription drug;

(vii) The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit or suspected of being counterfeit, or the delivery or proffered delivery of such drug whether for pay or otherwise; and

(viii) The adulteration, mutilation, destruction, obliteration or removal of all or any part of the labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded.

(o) The board may assess an administrative penalty for a violation of subsection (n) of this section as follows:

(i) If a person unknowingly engages in the wholesale distribution of prescription drugs and acts in violation of subsection (n) of this section, the person may be assessed an administrative penalty not to exceed fifty thousand dollars (\$50,000.00);

(ii) If a person knowingly engages in wholesale distribution of prescription drugs in violation of subsection (n) of this section, the person may be assessed an administrative penalty not to exceed five hundred thousand dollars (\$500,000.00).

(p) The board is authorized to contract with a private person or entity to inspect and accredit drug distributors. Any proprietary information obtained during the accreditation

process shall remain confidential and privileged. The board shall provide by rule and regulation for the administrative review of any decision denying accreditation.

(q) The board may license by reciprocity a drug distributor that is licensed in another state if:

(i) The requirements of the distributor's domiciliary state are determined by the board to be substantially equivalent to the requirements of this state for licensing of drug distributors; or

(ii) The applicant is accredited by a third party approved by the board.

(r) For purposes of this section:

(i) "Designated representative" means an individual designated by a wholesale drug distributor and who is actively involved in and aware of the actual daily operation of the wholesale drug distributor at the wholesaler's licensed location;

(ii) "Pedigree" means a document or electronic file containing recorded information regarding each distribution of any given prescription drug.

33-24-154. Emergency administration of controlled substances.

Notwithstanding any other provision of this act or the Wyoming Controlled Substances Act, the board, by rule or regulation, may authorize nursing homes, hospices, extended care facilities or intermediate care facilities to maintain a limited supply of controlled substances or other drugs on the premises for emergency administration to the residents and patients therein without being subject to the licensure requirements of this act.

33-24-155. Reports required to state health officer.

(a) As provided by department of health rule and regulation, a pharmacist shall report in the manner established through published reporting procedures provided to each licensed pharmacist, any unusually high volume of any type of prescription filled, unusual trend in pharmacy visits or unusual trend in nonprescription medication sales that the pharmacist has reason to believe is related to a public health emergency.

(b) Pursuant to department of health rule and regulation, there may be a review of medical records by the state health officer, his designee or their designated health care

representative who shall be under the direct supervision of the state health officer or his designee to confirm diagnosis, investigate causes or identify other cases of disease conditions in a region, community or workplace in the state to determine if proper measures have been taken to protect the public health and safety. Notwithstanding any other provision of law, the review of records during a public health emergency or disease outbreak may occur without patient consent, but shall be kept confidential and shall be restricted to information necessary for the control, investigation and prevention of any disease condition dangerous to the public health. Any person who receives medical information under this subsection shall not disclose that information for any other purpose than the investigation and any disease control effort. Any violation of this subsection is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars (\$1,000.00), or both.

33-24-156. Telepharmacy practice authorized.

(a) The board pursuant to its rules and regulations may authorize a licensed pharmacy to store and dispense prescription drugs as provided in subsection (b) of this section through a telepharmacy located at a site at least twenty-five (25) miles from a licensed pharmacy.

(b) Telepharmacies shall include the following minimum features:

(i) Storage, security and dispensing of prescription drugs in unit of issue packages or through a mechanical system which dispenses tablets or capsules from an enclosed and lockable cabinet directly into a prescription vial and prints and applies a prescription label to the vial;

(ii) Connection by a secure communication system to the parent pharmacy, with the capability of live video and audio communication with a registered pharmacist at the parent pharmacy during hours of operation;

(iii) Adequate provision for security, including verification of customer identity and prescription information;

(iv) Automated inventory control using bar codes, radio frequency tags or a similar identification system;

(v) Prominent display of the name, address and toll free telephone number of the parent pharmacy.

(c) A telepharmacy system operated as provided in this act and in accord with rules and regulations of the board is deemed to be operated under the charge of a registered pharmacist for purposes of W.S. 33-24-113(b). A pharmacist may not serve as a pharmacist in charge for more than one (1) telepharmacy at any one time.

33-24-157. Immunization administration.

(a) A pharmacist licensed under this act may only prescribe and administer immunizations recommended for healthy adults as authorized by the board.

(b) A pharmacist licensed under this act may administer immunizations to adults who are considered high risk only by prescription from a licensed physician.

(c) The board, in cooperation with the Wyoming state board of medicine, shall adopt rules specifying immunizations allowed under this act and the requirements a pharmacist shall meet in order to prescribe and administer immunizations.

ARTICLE 2
WYOMING DRUG IDENTIFICATION ACT

33-24-201. Short Title.

This article shall be known and may be cited as the "Wyoming Drug Identification Act".

33-24-202. Definitions.

(a) As used in this article:

(i) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;

(ii) "Dangerous substance" means any drug defined under W.S. 33-24-125;

(iii) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;

(iv) "Solid dosage form" means capsules or tablets intended for oral use;

(v) "This article" means W.S. 33-24-201 through 33-24-204.

33-24-203. Code imprint required for the manufacture and distribution of dangerous substances; listing of substances with board of pharmacy; exceptions; exemptions.

(a) No dangerous substance in solid dosage form shall be manufactured or distributed in this state unless it is clearly marked or imprinted with a code imprint identifying the drug and the manufacturer or distributor of the drug.

(b) All manufacturers and distributors of dangerous substances in solid dosage form shall provide upon request to the Wyoming board of pharmacy a listing of all dangerous substances identifying by code imprint the manufacturer and the specific type of drug. The listing shall at all times be kept current by all manufacturers and distributors subject to this article.

(c) This article shall not apply to nonnarcotic, nonprescription, prepackaged medicinal preparations contained in distinctive and original unbroken containers, when the medicinal preparations are identified by and sold under a trade name of the manufacturer or primary distributor and are sold or offered for sale to the general public, if the articles meet the requirements of state and federal food, drug and cosmetic laws.

(d) The Wyoming board of pharmacy may grant exemptions from the requirements of this article upon application by any drug manufacturer or distributor showing size, physical characteristics or other unique characteristics which render the application of a code imprint to a drug subject to this article impractical or impossible. Any exemption granted by the board shall be included by the manufacturer or distributor in the listing required by subsection (b) of this section, describing the physical characteristics and type of drug to which the exemption applies.

33-24-204. Violations; seizure by the board of pharmacy.

All dangerous substances in solid dosage form that are possessed, distributed, sold or offered for sale in violation of the provisions of this article are deemed contraband and shall be seized by the Wyoming board of pharmacy and summarily forfeited to the state.

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

(a) This section shall be known as the "Wyoming Pharmacy Technician Act."

(b) As used in this section:

(i) "Direct supervision" means that a licensed pharmacist shall be physically present and capable of observing the actions of a pharmacy technician;

(ii) "Pharmacy functions" means those functions performed in a pharmacy department which do not require the professional judgment of a licensed pharmacist;

(iii) "Pharmacy technician" means an individual other than an intern, who performs pharmacy functions under the direct supervision of a licensed pharmacist.

(c) A pharmacy technician shall not perform pharmacy functions unless under the direct supervision of a licensed pharmacist.

(d) A licensed pharmacist shall be jointly responsible and liable for the actions of a pharmacy technician when direct supervision is required.

(e) A pharmacy technician shall register and pay a fee to be licensed by the board before performing any pharmacy functions. The applicant shall provide relevant information pertaining to criminal, substance abuse, professional liability and licensure or certification history. A pharmacy technician license shall be renewed annually upon payment of the required renewal fee and upon providing information required.

(f) The board may issue a letter of admonition or suspend or revoke a pharmacy technician's license or the board may assess an administrative penalty against that person not to exceed one thousand dollars (\$1,000.00) for each violation for any:

(i) Willful violation of any provision of this chapter or the Wyoming Controlled Substances Act of 1971, or any amendments thereto;

(ii) Willful violation of any rule or regulation promulgated in accordance with this chapter or the Wyoming Controlled Substances Act of 1971;

(iii) Action which threatens the public health, safety or welfare;

(iv) Conviction of a felony or misdemeanor involving moral turpitude; or

(v) Knowing submission of false or misleading information to the board in the application for a license or renewal of a license.

(g) The board shall promulgate reasonable rules and regulations necessary to carry out the purposes of this section including, but not limited to:

(i) Qualifications, education and training required of pharmacy technicians;

(ii) Functions and services which may be performed by pharmacy technicians; and

(iii) Requirements for direct supervision by licensed pharmacists.

(h) An applicant for a pharmacy technician license or a pharmacy technician-in-training permit 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 or permit pending the receipt of the information from the applicant's background check.