

ACT No. 811

Regular Session, 2004

HOUSE BILL NO. 1402

BY REPRESENTATIVES WALKER, DURAND, DORSEY, GLOVER, GRAY, KATZ, LABRUZZO, WALSWORTH, AND WINSTON AND SENATORS CHEEK AND HINES

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AN ACT

To enact R.S. 37:1226.2 and to repeal R.S. 37:1226.1, relative to prescription drugs; to provide for prescription drug returns and exchanges; to provide for redispensing; to provide for requirements of donations; to provide for the authority of the board to promulgate rules; to provide for limitations of liability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1226.2 is hereby enacted to read as follows:

§1226.2. Prescription drug returns, exchanges, and redispensing; donation requirements; authority to promulgate rules; limitation of liability

A. All drugs dispensed on prescription to a patient shall be accepted for return, exchange, or redispensing by a charitable pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed including but not limited to:

(1) In a hospital with a permitted hospital pharmacy on site, drugs may be returned to the pharmacy in accordance with good professional practice standards.

(2) Any person, including a drug manufacturer, hospital, health care facility, or governmental entity may donate prescription drugs to a charitable pharmacy for relabeling and dispensing to the indigent, free of charge, pursuant to a valid prescription order.

B. Donations of prescription drugs to a charitable pharmacy are subject to the following requirements:

1 (1) The charitable pharmacy may accept only those drugs in their original
2 sealed and tamper-evident packaging; except that drugs packaged in single-unit doses
3 may be accepted and dispensed when the outside packaging is opened if the single-
4 unit dose packaging is intact.

5 (2) The pharmacist in charge of the charitable pharmacy shall determine if
6 the drug is not adulterated or misbranded and is safe to dispense. No product where
7 the integrity of the medication cannot be assured shall be accepted for redispensing
8 by the pharmacist of the charitable pharmacy.

9 (3) The donor shall execute a form stating the donation of the drugs. The
10 pharmacy shall retain that form along with other acquisition records.

11 (4) The patient's name, prescription number, and any other identifying marks
12 shall be obliterated from the packaging prior to redispensing the medication to
13 another patient.

14 (5) The drug name, strength, and expiration date shall remain on the
15 medication package label. The redispensed medication shall be assigned the
16 expiration date stated on the package.

17 (6) Expired drugs accepted by a charitable pharmacy shall not be
18 redispensed.

19 (7) The charitable pharmacy shall comply with all state and federal laws
20 regarding controlled dangerous substances.

21 (8) No drug dispensed through a charitable pharmacy shall be eligible for
22 reimbursement from the Medicaid Pharmacy Program.

23 C. The board shall have the authority to promulgate rules and regulations in
24 accordance with the Administrative Procedure Act for the purpose of administering
25 the provisions of this Section.

26 D.(1) No person, including a drug manufacturer, health care facility, or
27 governmental agency who donates prescription drugs to a charitable pharmacy, as
28 well as the charitable pharmacy, any pharmacist who originally dispensed the donated
29 prescription drugs, any pharmacist dispensing donated prescription drugs, or the

1 board of pharmacy shall be subject to any professional disciplinary action, criminal
2 prosecution, liability in tort or other civil action for injury, death, or loss to person
3 or property related to the donating, accepting, or dispensing of donated prescription
4 drugs.

5 (2) No pharmaceutical manufacturer shall be liable for any claim or injury
6 arising from the transfer of any prescription drug pursuant to the provisions of this
7 Section, including but not limited to liability for failure to transfer or communicate
8 product or consumer information regarding the transferred drug, as well as the
9 expiration date of the transferred drug.

10 E. For purposes of this Section "charitable pharmacy" means the practice of
11 a pharmacy at a site where prescriptions are dispensed by a charitable organization
12 free of charge to appropriately screened and qualified patients.

13 Section 2. R.S. 37:1226.1 is hereby repealed in its entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____