

## **IDAPA 27 - BOARD OF PHARMACY**

### **27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY**

**DOCKET NO. 27-0101-0908**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1717, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**In response to the public comment that was received, the Board has determined to adopt the pending rule which includes a change in text from the proposed rule. The change in text is necessary to clarify that all prescriptions, including those for controlled substances, are within the scope of the rule. This change is also necessary to make Idaho's rules regarding prescription transfer in conformity with those of the Drug Enforcement Administration.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 262 through 264.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact to the general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 4th day of November, 2009.

Mark Johnston, R.Ph.  
Executive Director  
Board of Pharmacy

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***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1717, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The proposed rulemaking is necessary to clarify that a pharmacy may transfer a prescription to another pharmacy without first having to fill it. The proposed rule will permit a pharmacist to transfer a prescription to another pharmacy to be filled or refilled. The rule will also clarify the recordkeeping responsibility of the receiving pharmacy.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

No fees or charges are being imposed or increased through this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no negative impact to the general fund as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

**160. PRESCRIPTION TRANSFER.**

A pharmacist may transfer prescription order information for the purpose of filling or refilling a prescription only if the information is communicated orally directly from pharmacist to pharmacist. Such oral information can be communicated by a student pharmacist, under the direct supervision of a pharmacist, to another pharmacist as long as one (1) of the parties involved in the communication is a pharmacist. In the alternative, the transferring pharmacist may transfer the prescription order information by facsimile transmission to the receiving pharmacist. In the case of a facsimile transmission, the transmission shall be signed by the transferring pharmacist.

(~~5-8-09~~)(      )

**01. Transferring Prescriptions for Controlled Substances.** A prescription for a controlled substance may be transferred only from the pharmacy where it was originally filled and never from the pharmacy that received the transfer. (7-1-93)

**a.** In addition to the information required in Subsection 160.02 the pharmacist transferring the prescription shall record on the back of the original order the DEA number and address of the pharmacy to which the transfer was made. (7-1-93)

**b.** The receiving pharmacist must record the DEA number and address of the pharmacy transferring the order. (7-1-93)

**02. Documenting the Transfer of a Prescription.** The pharmacist who transfers the prescription shall: (5-8-09)

**a.** Invalidate the original prescription by writing the word “void” across the face of the form; and (7-1-93)

**b.** On the back of the form, record the following information: his name; name of the receiving individual; name of the receiving pharmacy; date of the transfer, and the number of authorized refills available. (7-1-93)

**03. Documenting the Receipt of a Transferred Prescription.** The pharmacist who receives the transferred prescription shall: (5-8-09)

**a.** Reduce the transferred information to writing including all information required by law or rule and a notation that the prescription is a “transfer”; and (7-1-93)

**b.** On ~~the back of~~ the form, record the following information: his name; the name of the transferring individual; the name of the transferring pharmacy; the date of the original dispensing and transfer, the number of refills authorized, the number of valid refills remaining, the date of the last refill, and the serial number of the prescription transferred. (7-1-93)(    )

**04. Documenting Prescription Transfers by Computer.** Transferring pharmacies that utilize a computer prescription database that contains all of the prescription information required by law or rule may enter the information required under Section 160 of these rules into the pharmacy's prescription database (including de-activation of the transferred prescription in the database of the transferring pharmacy) in lieu of entry of the required information on the original written prescription. ~~The receiving pharmacy must generate a hard copy to be treated as a new prescription, and the hard copy shall also contain all of the information required under Section 160 of these rules.~~ (3-30-01)(    )

**05. Documenting Receipt of Prescription Transfers by Computer.** A receiving pharmacy that utilizes a computer prescription database that contains all of the prescription information required by law or rule must generate a hard copy to be treated as a new prescription; however, the receiving pharmacy may enter the information required under Section 160 of these rules into the pharmacy's prescription database in lieu of writing the information on the hard copy of the new prescription. (    )

**056. Transferring Prescription Refills.** Prescriptions for non-controlled drugs may be transferred more than one (1) time as long as there are refills remaining and all of the provisions of these rules are followed. (7-1-93)

**067. Transferring Prescription Between Pharmacies Using Common Electronic Prescription Files.** (7-1-98)

**a.** ~~For prescriptions written for drugs other than controlled substances~~ Two (2) or more pharmacies may establish and use a common electronic prescription file to maintain required dispensing information. Pharmacies using the common file are not required to transfer prescriptions or information for dispensing purposes between or among other pharmacies using in the same common electronic prescription file. (7-1-98)(    )

**b.** ~~For controlled substances pharmacies using a common electronic prescription must satisfy all documentation requirements of a manual prescription transfer.~~ (7-1-98)

**eb.** All common electronic prescription files must contain complete and accurate records of each prescription and refill dispensed. Hard copies must be generated and treated as new prescriptions by the receiving pharmacies. (7-1-98)