

IN THE SENATE

SENATE BILL NO. 1387

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO PHARMACY ACT; AMENDING SECTION 54-1705, IDAHO CODE,  
2 TO ADD A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
3 TION 54-1719, IDAHO CODE, TO CLARIFY THE PHARMACY BOARD'S AUTHORITY  
4 OVER DURABLE MEDICAL SUPPLIES; AMENDING SECTION 54-1729, IDAHO CODE,  
5 TO CLARIFY THAT THE PHARMACY BOARD MAY ISSUE ENHANCED CERTIFICATES TO  
6 ANY OUTLET AND TO ESTABLISH ADDITIONAL REGISTRATION REQUIREMENTS FOR  
7 DURABLE MEDICAL EQUIPMENT SUPPLIERS OF CERTAIN TYPES OF EQUIPMENT;  
8 AMENDING SECTION 37-3201, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-  
9 ENCE; AMENDING SECTION 54-1761, IDAHO CODE, TO PROVIDE A CORRECT CODE  
10 REFERENCE; AND AMENDING SECTION 54-4702, IDAHO CODE, TO PROVIDE A COR-  
11 RECT CODE REFERENCE.  
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 54-1705, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 54-1705. DEFINITIONS. In this chapter:

17 (1) "Board of pharmacy" or "board" means the Idaho state board of phar-  
18 macy.

19 (2) "Central drug outlet" means a resident or nonresident pharmacy,  
20 drug outlet, or business entity employing or contracting pharmacists to  
21 perform centralized pharmacy services.

22 (3) "Central pharmacist" means a pharmacist performing centralized  
23 pharmacy services.

24 (4) "Centralized pharmacy services" means the processing by a central  
25 drug outlet or central pharmacist of a request from another pharmacy to fill,  
26 refill, or dispense a prescription drug order, perform processing functions  
27 or provide cognitive or pharmaceutical care services. Each function may be  
28 performed by the same or different persons and at the same or different loca-  
29 tions.

30 (5) "Compounding" means the practice in which a pharmacist, a pre-  
31 scriber, or, in the case of an outsourcing facility, a person under the  
32 supervision of a pharmacist, combines, mixes or alters ingredients of a drug  
33 to create a medication tailored to the needs of an individual patient.

34 (6) "Counseling" or "counsel" means the effective communication by the  
35 pharmacist of information as set out in this chapter, to the patient or care-  
36 giver, in order to improve therapeutic outcomes by maximizing proper use of  
37 prescription drugs and devices. Specific areas of counseling shall include,  
38 but are not limited to:

39 (a) Name and strength and description of the drug;

40 (b) Route of administration, dosage, dosage form, continuity of ther-  
41 apy and refill information;

- 1 (c) Special directions and precautions for preparation, administra-  
2 tion, storage and use by the patient as deemed necessary by the pharma-  
3 cist;
- 4 (d) Side effects or adverse effects and interactions and therapeutic  
5 contraindications that may be encountered, including their avoidance,  
6 which may interfere with the proper use of the drug or device as was in-  
7 tended by the prescriber, and the action required if they occur;
- 8 (e) Techniques for self-monitoring drug therapy; and  
9 (f) Action to be taken in the event of a missed dose.
- 10 (7) "Deliver" or "delivery" means the actual, constructive or at-  
11 tempted transfer of a drug or device from one (1) person to another, whether  
12 or not for a consideration.
- 13 (8) "Device" means an instrument, apparatus, implement, machine, con-  
14 trivance, implant, in vitro reagent or other similar related article includ-  
15 ing any component part or accessory which is:
- 16 (a) Recognized in the official United States Pharmacopoeia or official  
17 National Formulary, other drug compendia or any supplement to them;
- 18 (b) Intended for use in the diagnosis of disease or other conditions, or  
19 the cure, mitigation, treatment or prevention of disease in man or other  
20 animal;
- 21 (c) Intended to affect the structure or any function of the body of man  
22 or other animal, and which does not achieve any of its principal in-  
23 tended purposes through chemical action within or on the body of man or  
24 other animal, and which is not dependent upon being metabolized for the  
25 achievement of any of its principal intended purposes.
- 26 (9) "Dispense" or "dispensing" means the preparation and delivery of  
27 a drug pursuant to a lawful prescription drug order of a practitioner in a  
28 suitable container appropriately labeled for subsequent administration to  
29 or use by a patient or other individual entitled to receive the prescription.
- 30 (10) "Distribute" means the delivery of a drug other than by administer-  
31 ing or dispensing.
- 32 (11) "Drug" means:
- 33 (a) Articles recognized as drugs in the official United States Phar-  
34 macopoeia, official National Formulary, official Homeopathic Pharma-  
35 copoeia, other drug compendia or any supplement to any of them;
- 36 (b) Articles intended for use in the diagnosis, cure, mitigation,  
37 treatment or prevention of disease in man or other animal;
- 38 (c) Articles, other than food, intended to affect the structure or any  
39 function of the body of man or other animals; and
- 40 (d) Articles intended for use as a component of any articles specified  
41 in paragraph (a), (b) or (c) of this subsection.
- 42 (12) "Drug order" means a prescription drug order issued in the unique  
43 form and manner permitted for a patient or resident of an institutional  
44 facility or as permitted for other purposes as defined in rules. Unless  
45 specifically differentiated, state law applicable to a prescription drug  
46 order is also applicable to a drug order.
- 47 (13) "Drug outlets" means all resident or nonresident pharmacies,  
48 business entities and other facilities where employees or personnel are en-  
49 gaged in the practice of pharmacy, in the provision of pharmaceutical care,

1 or in the dispensing, delivering, distributing or manufacturing of drugs or  
2 devices in or into Idaho.

3 (14) (a) "Durable medical equipment supplier" means a person or entity  
4 that:

5 (i) Currently bills or plans to bill the medicare program for ser-  
6 vices or products listed in the centers for medicare and medicaid  
7 durable medical equipment, prosthetics, orthotics and supplies  
8 competitive bid product categories in this state in the current  
9 calendar year; or

10 (ii) Intends to bid for services or products listed in the centers  
11 for medicare and medicaid durable medical equipment, prosthetics,  
12 orthotics and supplies competitive bid product categories in this  
13 state in the current calendar year.

14 (b) "Durable medical equipment supplier" does not include:

15 (i) A person or entity that supplies or provides insulin infusion  
16 pumps and related supplies or services;

17 (ii) A person or entity that supplies or provides products that are  
18 part of medicare's national mail order program;

19 (iii) A pharmacy located in Idaho that has a current pharmacy  
20 accreditation exemption that is accepted and recognized by the  
21 national supplier clearinghouse that enables the pharmacy to be  
22 enrolled in medicare to supply durable medical equipment without  
23 having the accreditation;

24 (iv) A practitioner identified in 42 U.S.C. 1395u(b) (18) (C) or a  
25 physician, if the practitioner or physician is supplying or pro-  
26 viding durable medical equipment to his or her own patients as part  
27 of the practitioner's or physician's own services; or

28 (v) A person or entity that supplies or provides devices, directly  
29 to a practitioner identified in 42 U.S.C. 1395u(b) (18) (C) or to a  
30 physician, that require a prescription for dispensing to the pa-  
31 tient as part of his or her own services, whether mailed to the  
32 practitioner or physician for fitting or mailed directly to the  
33 patient.

34 (15) "Extern" means a bona fide student enrolled in an approved school  
35 or college of pharmacy who has not received his first professional degree in  
36 pharmacy.

37 (156) "Externship" means a structured practical experience program in  
38 pharmacy administered by a school or college of pharmacy.

39 (167) "Institutional facility" means a facility for which its primary  
40 purpose is to provide a physical environment for patients to obtain health  
41 care services and in which patients spend a majority of their time, as may be  
42 further defined by board rules.

43 (178) "Intern" means any person who has completed a course of study at  
44 an approved school or college of pharmacy, received the first professional  
45 degree in pharmacy and is registered with the board as a pharmacist intern.  
46 Interns must register with the board prior to commencement of an internship  
47 program.

48 (189) "Internship" means a postgraduate practical experience program  
49 under the supervision of a preceptor.

1           (1920) "Investigational or new drug" means any drug which is limited by  
2 state or federal law to use under professional supervision of a practitioner  
3 authorized by law to prescribe or administer such drug.

4           (201) "Labeling" means the process of preparing and affixing of a la-  
5 bel to any drug container, exclusive however of the labeling by a manufac-  
6 turer, packer or distributor of a nonprescription drug or commercially pack-  
7 aged legend drug or device. Any such label shall include all information re-  
8 quired by federal and state law.

9           (212) "Limited service outlet" means a resident or nonresident facil-  
10 ity or business entity that is subject to registration by the board, pursuant  
11 to section 54-1729, Idaho Code, and has employees or personnel engaged in  
12 the practice of pharmacy, in the provision of pharmaceutical care, or in the  
13 dispensing, delivering, distributing or manufacturing of drugs or devices  
14 but is not a retail pharmacy, institutional facility, manufacturer, whole-  
15 saler, veterinary drug outlet, nonresident central drug outlet or mail ser-  
16 vice pharmacy.

17           (223) "Mail service pharmacy" means a nonresident pharmacy that ships,  
18 mails or delivers by any lawful means a dispensed legend drug to residents  
19 in this state pursuant to a legally issued prescription drug order and en-  
20 sures the provision of corresponding related pharmaceutical care services  
21 required by law.

22           (234) "Manufacture" means the production, preparation, propagation,  
23 compounding, conversion or processing of a device or a drug, either directly  
24 or indirectly by extraction from substances of natural origin or independ-  
25 ently by means of chemical synthesis or by a combination of extraction and  
26 chemical synthesis and includes any packaging or repackaging of the sub-  
27 stance or labeling or relabeling of its container, except that this term does  
28 not include the preparation or compounding of a drug by an individual for his  
29 own use or the preparation, compounding, packaging or labeling of a drug:

30           (a) By a pharmacist or practitioner as an incident to his administer-  
31 ing, dispensing or, as authorized by board rule, distributing of a drug  
32 in the course of his professional practice; or

33           (b) By a practitioner or by his authorization under his supervision for  
34 the purpose of or as an incident to research, teaching or chemical anal-  
35 ysis and not for sale.

36           (245) "Manufacturer" means a person who by compounding, cultivating,  
37 harvesting, mixing or other process, produces or prepares legend drugs,  
38 and includes persons who prepare such drugs in dosage forms by mixing, com-  
39 compounding, encapsulating, entableting, or other process, or who packages or  
40 repackages such drugs, but does not include pharmacists or practitioners in  
41 the practice of their profession.

42           (256) "Nonprescription drugs" means medicines or drugs which may be  
43 sold without a prescription drug order and which are prepackaged for use by  
44 the consumer and labeled in accordance with state and federal law.

45           (267) "Nonresident" means a person or business entity located in the  
46 District of Columbia or a state other than Idaho that practices pharmacy  
47 including, but not limited to, pharmaceutical care services into Idaho.

48           (278) "Outsourcing facility" means a facility that is registered by the  
49 United States food and drug administration pursuant to 21 U.S.C. section  
50 353b and either registered or endorsed by the board.

1 (289) "Person" means an individual, corporation, partnership, associa-  
2 tion or any other legal entity.

3 (2930) "Pharmaceutical care" means drug therapy and other pharmaceuti-  
4 cal patient care services intended to achieve outcomes related to the cure or  
5 prevention of a disease, elimination or reduction of a patient's symptoms,  
6 or arresting or slowing of a disease process as defined in the rules of the  
7 board.

8 (301) "Pharmacist" means an individual licensed by this state to engage  
9 in the practice of pharmacy or a pharmacist registered by this state who is  
10 located in another state or the District of Columbia and is engaged in the  
11 practice of pharmacy into Idaho, unless exempted.

12 (312) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifica-  
13 tions, responsibilities and reporting requirements are defined in rule.

14 (323) "Pharmacy" means any facility, department or other place where  
15 prescription drug orders are filled or compounded and prescriptions are  
16 sold, dispensed, offered or displayed for sale, which has, as its principal  
17 purpose, the dispensing of drug and health supplies intended for the general  
18 health, welfare and safety of the public.

19 (334) "Practitioner" means a person licensed in this state and permit-  
20 ted by such license to dispense, conduct research with respect to or adminis-  
21 ter drugs in the course of professional practice or research in this state.

22 ~~(34) "Precursor" means a substance, other than a legend drug, which is~~  
23 ~~an immediate chemical intermediate that can be processed or synthesized into~~  
24 ~~a legend drug, and is used or produced primarily for use in the manufacture~~  
25 ~~of a legend drug by persons other than persons licensed to manufacture such~~  
26 ~~legend drugs by the Idaho board of pharmacy, registered by the state board~~  
27 ~~of health and welfare, or licensed to practice pharmacy by the Idaho board of~~  
28 ~~pharmacy.~~

29 (35) "Preceptor" means a pharmacist licensed and in good standing who  
30 supervises the internship or externship training of a registered student  
31 pharmacist. The preceptor shall be actively engaged in the practice of phar-  
32 macy on a full-time employment basis.

33 (36) "Precursor" means a substance, other than a legend drug, which is  
34 an immediate chemical intermediate that can be processed or synthesized into  
35 a legend drug, and is used or produced primarily for use in the manufacture  
36 of a legend drug by persons other than persons licensed to manufacture such  
37 legend drugs by the Idaho board of pharmacy, registered by the state board  
38 of health and welfare, or licensed to practice pharmacy by the Idaho board of  
39 pharmacy.

40 (367) "Prescriber" means an individual currently licensed, registered  
41 or otherwise authorized to prescribe and administer drugs in the course of  
42 professional practice.

43 (378) "Prescription drug or legend drug" means a drug that under federal  
44 law is required, prior to being dispensed or delivered, to be labeled with  
45 one (1) of the following statements:

- 46 (a) "Caution: Federal law prohibits dispensing without a prescrip-  
47 tion"; or  
48 (b) "Rx Only"; or  
49 (c) "Caution: Federal law restricts this drug to use by or on the order  
50 of a licensed veterinarian";

1 or a drug which is required by any applicable federal or state law or regula-  
 2 tion to be dispensed on prescription drug order only or is restricted to use  
 3 by practitioners only.

4 (389) "Prescription drug order" means a valid order of a practitioner  
 5 for a drug or device for an ultimate user of the drug or device.

6 (3940) "Prospective drug review" includes, but is not limited to, the  
 7 following activities:

8 (a) Evaluation of the prescription drug order for:

9 (i) Known allergies;

10 (ii) Rational therapy contraindications;

11 (iii) Reasonable dose and route of administration; and

12 (iv) Reasonable directions for use.

13 (b) Evaluation of the prescription drug order for duplication of ther-  
 14 apy.

15 (c) Evaluation of the prescription drug order for interactions:

16 (i) Drug-drug;

17 (ii) Drug-food; and

18 (iii) Drug-disease.

19 (d) Evaluation of the prescription drug order for proper utilization:

20 (i) Over or under utilization; and

21 (ii) Abuse/misuse.

22 (401) "Record" means all papers, letters, memoranda, notes, prescrip-  
 23 tions, drug orders, invoices, statements, patient medication charts or  
 24 files, computerized records or other written indicia, documents or objects  
 25 which are used in any way in connection with the purchase, sale or handling of  
 26 any drug or device.

27 (412) "Sale" means every sale and includes:

28 (a) Manufacturing, processing, transporting, handling, packaging or  
 29 any other production, preparation or repackaging;

30 (b) Exposure, offer, or any other proffer;

31 (c) Holding, storing or any other possession;

32 (d) Dispensing, giving, delivering or any other supplying; and

33 (e) Applying, administering or any other usage.

34 (423) "Ultimate user" means a person who lawfully possesses a drug for  
 35 his own use or for the use of a member of his household or for administering to  
 36 an animal owned by him or by a member of his household.

37 (434) "Wholesaler" means a person who in the usual course of business  
 38 lawfully distributes drugs or devices in or into Idaho to persons other than  
 39 the ultimate user.

40 SECTION 2. That Section 54-1719, Idaho Code, be, and the same is hereby  
 41 amended to read as follows:

42 54-1719. MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board  
 43 of pharmacy shall also have the following responsibilities in regard to med-  
 44 ications, drugs, devices including durable medical equipment, and other ma-  
 45 terials used in this state in the diagnosis, mitigation and treatment or pre-  
 46 vention of injury, illness and disease:

47 (1) The regulation of the sale at retail and the dispensing of medica-  
 48 tions, drugs, devices including durable medical equipment, and other mate-  
 49 rials, including the method of dispensing in institutional facilities, and

1 including the right to seize such drugs, devices, durable medical equipment  
 2 and other materials found to be detrimental to the public health and welfare  
 3 by the board after appropriate hearing as required under the administrative  
 4 procedure act;

5 (2) The specifications of minimum professional and technical equip-  
 6 ment, environment, supplies and procedures for the compounding, dispensing  
 7 and distribution of such medications, drugs, devices, durable medical  
 8 equipment and other materials within the practice of pharmacy;

9 (3) The control of the purity and quality of such medications, drugs,  
 10 devices, durable medical equipment and other materials within the practice  
 11 of pharmacy;

12 (4) The issuance and renewal of certificates of registration of drug  
 13 and device outlets, including durable medical equipment suppliers, for pur-  
 14 poses of ascertaining those persons engaged in the manufacture and distribu-  
 15 tion of drugs and medical devices, including durable medical equipment.

16 SECTION 3. That Section 54-1729, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18 54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or de-  
 19 vice outlets doing business in or into Idaho shall:

20 (a) If a nonresident, be licensed or registered and in good standing in  
 21 the applicant's state of residence;

22 (b) Submit a written application in the form prescribed by the board;

23 (c) Pay the fee or fees specified by the board for the issuance of the  
 24 registration or license; and

25 (d) Have a PIC or director who is licensed or registered by the board,  
 26 except manufacturers, wholesalers, veterinary drug outlets and limited  
 27 service outlets without a pharmacy.

28 (2) Each drug or device outlet shall apply for a certificate of regis-  
 29 tration or a license in one (1) of the following classifications:

30 (a) Retail pharmacy;

31 (b) Institutional facility;

32 (c) Manufacturer;

33 (d) Wholesaler;

34 (e) Veterinary drug outlet;

35 (f) Nonresident central drug outlet;

36 (g) Mail service pharmacy;

37 (h) Limited service outlet.

38 (3) The board shall establish by rule under the powers granted to it un-  
 39 der sections 54-1718 and 54-1719, Idaho Code, the criteria which each out-  
 40 let, that has employees or personnel engaged in the practice of pharmacy,  
 41 must meet to qualify for registration or licensure in each classification  
 42 designated in subsection (2) of this section. The board may issue various  
 43 types of certificates with varying restrictions or enhancements to such any  
 44 outlets designated in subsection (2) of this section where the board deems it  
 45 necessary by reason of the type of outlet requesting a certificate.

46 (4) It shall be lawful for an outlet registered or licensed under this  
 47 section to sell and distribute nonprescription drugs. Outlets engaging in  
 48 the sale and distribution of such items shall not be deemed to be improperly  
 49 engaged in the practice of pharmacy. No rule will be adopted by the board un-

1 der this chapter which shall require the sale of nonprescription drugs by a  
 2 pharmacist or under the supervision of a pharmacist or otherwise apply to or  
 3 interfere with the sale and distribution of such medicines.

4 (5) If the regulatory board or licensing authority of the state in which  
 5 a nonresident outlet is located fails or refuses to conduct an inspection or  
 6 fails to obtain records or reports required by the board, upon reasonable no-  
 7 tice to the nonresident outlet, the board may conduct an inspection. Nonres-  
 8 ident outlets shall also pay the actual costs of the out-of-state inspection  
 9 of the outlet, including the transportation, lodging and related expenses of  
 10 the board's inspector.

11 (6) A successful applicant for registration under the provisions of  
 12 this section shall be subject to the disciplinary provisions of section  
 13 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code,  
 14 and the rules of the board.

15 (7) A successful applicant for registration under the provisions of  
 16 this section shall comply with the board's ~~laws~~ rules and ~~rules~~ the laws of  
 17 this state unless compliance would violate the laws or rules in the state in  
 18 which the registrant is located, except as follows:

19 (a) A technician shall not exceed the practice limitations for techni-  
 20 cians in Idaho;

21 (b) A pharmacist shall only substitute drug products in accordance with  
 22 ~~the board's Idaho~~ Idaho laws and rules;

23 (c) A pharmacist shall only select drug products in accordance with ~~the~~  
 24 ~~board's Idaho~~ Idaho laws and rules; and

25 (d) A pharmacy shall not exceed the pharmacy staffing ratio as defined  
 26 in Idaho rules.

27 (8) Renewal shall be required annually and submitted to the board no  
 28 later than June 30. The board shall specify by rule the procedures to be fol-  
 29 lowed and the fees to be paid for renewal of registration or licensure.

30 (9) A durable medical equipment supplier, upon initial application for  
 31 registration under subsection (2) of this section and upon each annual re-  
 32 newal, shall certify that it meets the requirements of paragraph (c) of this  
 33 subsection if it supplies or intends to supply any of the services or prod-  
 34 ucts set forth in paragraph (b) of this subsection.

35 (a) All durable medical equipment suppliers shall comply with the re-  
 36 quirements for a limited service outlet in this section.

37 (b) Any durable medical equipment supplier who supplies or intends to  
 38 supply any of the following services or products must meet the require-  
 39 ments of paragraph (c) of this subsection: medical oxygen equipment,  
 40 continuous positive airway pressure devices, respiratory assist de-  
 41 VICES, ventilators, invasive or noninvasive mechanical ventilation  
 42 devices, mechanical insufflation-exsufflation devices, high frequency  
 43 chest wall oscillation devices and supplies, negative pressure wound  
 44 therapy pumps, continuous passive motion devices, hospital beds and  
 45 accessories, support services (e.g., group II mattress replacement  
 46 systems), custom orthoses and prosthetics, patient lifts, manual and  
 47 power wheelchairs, rehabilitative seating and related accessories,  
 48 gastric suction pumps or enteral pumps.

49 (c) Any durable medical equipment supplier selling one (1) or more  
 50 products in paragraph (b) of this subsection shall have at least one



1       (1) accredited physical facility that meets federal supplier standards  
2       under 42 CFR 424.57 and is either located in Idaho or is within one hun-  
3       dred fifty (150) miles of any customer located in Idaho served by the  
4       supplier, and shall maintain sufficient inventory and staff to service  
5       or repair such products.

6       SECTION 4. That Section 37-3201, Idaho Code, be, and the same is hereby  
7       amended to read as follows:

8       37-3201. DEFINITIONS. As used in this chapter:

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

12      (2) "Distributor" means a person who distributes for resale a drug in  
13      solid dosage form under his own label even though he is not the actual manu-  
14      facturer of the drug;

15      (3) "Solid dosage form" means capsules or tablets intended for oral  
16      use;

17      (4) "Legend drug" means any drug defined by section 54-1705(378), Idaho  
18      Code.

19      SECTION 5. That Section 54-1761, Idaho Code, be, and the same is hereby  
20      amended to read as follows:

21      54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765,  
22      Idaho Code:

23      (1) "Legend drug" has the same meaning as provided in section  
24      54-1705(378), Idaho Code.

25      (2) "Medically indigent" means any person who is in need of a legend  
26      drug and who is not eligible for medicaid or medicare, who cannot afford pri-  
27      vate prescription drug insurance or who does not have income and other re-  
28      sources available sufficient to pay for the legend drug.

29      (3) "Qualifying charitable clinic or center" means a community health  
30      center as defined in section 39-3203, Idaho Code, and means a free medical  
31      clinic as defined in section 39-7702, Idaho Code, acting in consultation  
32      with a pharmacist licensed in the state of Idaho.

33      SECTION 6. That Section 54-4702, Idaho Code, be, and the same is hereby  
34      amended to read as follows:

35      54-4702. DEFINITIONS. As used in this chapter:

36      (1) "Acupuncture" means that theory of health care developed from tra-  
37      ditional and modern Oriental medical philosophies that employs diagnosis  
38      and treatment of conditions of the human body based upon stimulation of spe-  
39      cific acupuncture points on meridians of the human body for the promotion,  
40      maintenance, and restoration of health and for the prevention of disease.  
41      Therapies within the scope of acupuncture include manual, mechanical, ther-  
42      mal, electrical and electromagnetic treatment of such specific indicated  
43      points. Adjunctive therapies included in, but not exclusive to, acupuncture  
44      include herbal and nutritional treatments, therapeutic exercise and other  
45      therapies based on traditional and modern Oriental medical theory.

1 (2) "Board" means the Idaho state board of acupuncture.

2 (3) "NCCAOM" means "National Certification Commission for Acupuncture  
3 and Oriental Medicine."

4 (4) "Practice of acupuncture" means the insertion of acupuncture nee-  
5 dles and use of similar devices and therapies, including application of mox-  
6 ibustion, to specific indicated points on the skin of the human body as indi-  
7 cated pursuant to traditional and modern theories of Oriental medicine. The  
8 "practice of acupuncture" does not include:

9 (a) Surgery; or

10 (b) Prescribing, dispensing or administering any prescription drug or  
11 legend drug as defined in section 54-1705 (378), Idaho Code.