

NMSA 61-11-7 Drug Dispensation; Limitations

A. The Pharmacy Act does not prohibit:

- (1) a hospital or state or county institution or clinic without the services of a staff pharmacist from acquiring and having in its possession a dangerous drug for the purpose of dispensing if it is in a dosage form suitable for dispensing and if the hospital, institution or clinic employs a consulting pharmacist, and if the consulting pharmacist is not available, the withdrawal of a drug from stock by a licensed professional nurse on the order of a licensed practitioner in such amount as needed for administering to and treatment of a patient;
- (2) the extemporaneous preparation by a licensed professional nurse on the order of a licensed practitioner of simple solutions for injection when the solution may be prepared from a quantity of drug that has been prepared previously by a pharmaceutical manufacturer or pharmacist and obtained by a hospital, institution or clinic in a form suitable for the preparation of the solution;
- (3) the sale of nonnarcotic, nonpoisonous or nondangerous nonprescription medicines or preparations by nonregistered persons or unlicensed stores when sold in their original containers;
- (4) the sale of drugs intended for veterinary use; provided that if the drugs bear the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian", the drug may be sold or distributed only as provided in Subsection A of Section 26-1-15 NMSA 1978, by a person possessing a license issued by the board pursuant to Subsection B of Section 61-11-14 NMSA 1978;
- (5) the sale to or possession or administration of topical ocular pharmaceutical agents by licensed optometrists who have been certified by the board of optometry for the use of the agents;
- (6) the sale to or possession or administration of oral pharmaceutical agents as authorized in Subsection A of Section 61-2-10.2 NMSA 1978 by licensed optometrists who have been certified by the board of optometry for the use of the agents;
- (7) pharmacy technicians from providing assistance to pharmacists;
- (8) a pharmacist from prescribing dangerous drug therapy, including vaccines and immunizations, under rules and protocols adopted by the board after approval by the New Mexico medical board and the board of nursing;
- (9) a pharmacist from exercising the pharmacist's professional judgment in refilling a prescription for a prescription drug, unless prohibited by another state or federal law, without the authorization of the prescribing licensed practitioner, if:
 - (a) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;
 - (b) the pharmacist is unable to contact the licensed practitioner after reasonable effort;
 - (c) the quantity of prescription drug dispensed does not exceed a seventy-two-hour supply;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without authorization and that authorization of the licensed practitioner is required for future refills; and

(e) the pharmacist informs the licensed practitioner of the emergency refill at the earliest reasonable time; or

(10) the possession, storage, distribution, dispensing, administration or prescribing of an opioid antagonist in accordance with the provisions of Section 24-23-1 NMSA 1978.

B. All prescriptions requiring the preparation of dosage forms or amounts of dangerous drugs not available in the stock of a hospital, institution or clinic or a prescription requiring compounding shall be either compounded or dispensed only by a pharmacist.

History: 1953 Comp., § 67-9-38, enacted by Laws 1969, ch. 29, § 6; 1973, ch. 173, § 1; 1977, ch. 30, § 4; 1992, ch. 19, § 3; 1995, ch. 20, § 9; 1997, ch. 131, § 7; 2001, ch. 50, § 5; 2016, ch. 45, § 2; 2016, ch. 47, § 2.