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SENATE BILL NO. 672

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 10, 2022)

(Patron Prior to Substitute—Senator Dunnavant)

A BILL to amend and reenact §§ 54.1-3303.1 and 54.1-3321 of the Code of Virginia, relating to pharmacists and pharmacy technicians; prescribing, dispensing, and administering of controlled substances.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3303.1 and 54.1-3321 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3303.1. Initiating of treatment with and dispensing and administering of controlled substances by pharmacists.

A. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs, devices, controlled paraphernalia, and other supplies and equipment to persons 18 years of age or older *with whom the pharmacist has a bona fide pharmacist-patient relationship* and in accordance with a statewide protocol developed by the Board in collaboration with the Board of Medicine and the Department of Health and set forth in regulations of the Board:

1. Naloxone or other opioid antagonist, including such controlled paraphernalia, as defined in § 54.1-3466, as may be necessary to administer such naloxone or other opioid antagonist;

2. Epinephrine;

3. Injectable or self-administered hormonal contraceptives, provided the patient completes an assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use;

4. Prenatal vitamins for which a prescription is required;

5. Dietary fluoride supplements, in accordance with recommendations of the American Dental Association for prescribing of such supplements for persons whose drinking water has a fluoride content below the concentration recommended by the U.S. Department of Health and Human Services;

6. Drugs as defined in § 54.1-3401, devices as defined in § 54.1-3401, controlled paraphernalia as defined in § 54.1-3466, and other supplies and equipment available over-the-counter, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, device, controlled paraphernalia, or other supplies or equipment;

7. Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention ~~or that have a current emergency use authorization from the U.S. Food and Drug Administration~~ and vaccines for COVID-19;

8. Tuberculin purified protein derivative for tuberculosis testing; ~~and~~

9. Controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention;

10. Nicotine replacement and other tobacco cessation therapies, including controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), together with providing appropriate patient counseling;

11. Controlled substances or devices for the initiation of treatment of the following diseases or conditions for which clinical decision making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988: group A streptococcus bacteria, influenza virus, and urinary tract infection; and

12. Tests for COVID-19 and other coronaviruses.

B. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs and devices to persons three years of age or older in accordance with a statewide protocol as set forth in regulations of the Board:

1. Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19;

2. Injectable or self-administered hormonal contraceptives, provided that the patient completes an assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use and, if the patient is a minor, has a prescription from a health care provider; and

3. Tests for COVID-19 and other coronaviruses.

C. A pharmacist who initiates treatment with or dispenses or administers a drug or device pursuant to this section shall notify the patient's primary health care provider that the pharmacist has initiated treatment with such drug or device or that such drug or device has been dispensed or

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administered to the patient, provided that the patient consents to such notification. *No pharmacist shall limit the ability of notification to be sent to the patient's primary care provider by requiring use of electronic mail that is secure or compliant with the federal Health Insurance Portability and Accountability Act (42 U.S.C. §1320d et seq.).* If the patient does not have a primary health care provider, the pharmacist shall counsel the patient regarding the benefits of establishing a relationship with a primary health care provider and, upon request, provide information regarding primary health care providers, including federally qualified health centers, free clinics, or local health departments serving the area in which the patient is located. If the pharmacist is initiating treatment with, dispensing, or administering injectable or self-administered hormonal contraceptives, the pharmacist shall counsel the patient regarding seeking preventative care, including (i) routine well-woman visits, (ii) testing for sexually transmitted infections, and (iii) pap smears.

~~C. D.~~ A pharmacist who administers a vaccination pursuant to ~~subdivision~~ subdivisions A 7 and B 1 shall report such administration to the Virginia Immunization Information System in accordance with the requirements of § 32.1-46.01.

E. A pharmacist who initiates treatment with, dispenses, or administers drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section shall obtain a history from the patient, including questioning the patient for any known allergies, adverse reactions, contraindications or health diagnoses or conditions that would be adverse to the initiation of treatment, dispensing, or administration.

F. A pharmacist may initiate treatment with, dispense, or administer drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section through telemedicine services, as defined in § 38.2-3418.16, in compliance with all requirements of § 54.1-3303 and consistent with the applicable standard of care.

G. A pharmacist who administers a vaccination to a minor pursuant to subdivision B 1 shall provide written notice to the minor's parent or guardian that the minor should visit a pediatrician annually.

§ 54.1-3321. Registration of pharmacy technicians.

A. No person shall perform the duties of a pharmacy technician without first being registered as a pharmacy technician with the Board. Upon being registered with the Board as a pharmacy technician, the following tasks may be performed:

1. The entry of prescription information and drug history into a data system or other record keeping system;

2. The preparation of prescription labels or patient information;

3. The removal of the drug to be dispensed from inventory;

4. The counting, measuring, or compounding of the drug to be dispensed;

5. The packaging and labeling of the drug to be dispensed and the repackaging thereof;

6. The stocking or loading of automated dispensing devices or other devices used in the dispensing process;

7. The acceptance of refill authorization from a prescriber or his authorized agency, so long as there is no change to the original prescription; and

8. *Under the supervision of a pharmacist, meaning the supervising pharmacist is at the same physical location of the technician or pharmacy intern, and consistent with the requirements of § 54.1-3303.1, administration of the following drugs and devices to persons three years of age or older as set forth in regulations of the Board: vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19; and*

9. The performance of any other task restricted to pharmacy technicians by the Board's regulations.

B. To be registered as a pharmacy technician, a person shall submit:

1. An application and fee specified in regulations of the Board;

2. (Effective July 1, 2022) Evidence that he has successfully completed a training program that is (i) an accredited training program, including an accredited training program operated through the Department of Education's Career and Technical Education program or approved by the Board, or (ii) operated through a federal agency or branch of the military; and

3. Evidence that he has successfully passed a national certification examination administered by the Pharmacy Technician Certification Board or the National Healthcareer Association.

C. The Board shall promulgate regulations establishing requirements for:

1. Issuance of a registration as a pharmacy technician to a person who, prior to the effective date of such regulations, (i) successfully completed or was enrolled in a Board-approved pharmacy technician training program or (ii) passed a national certification examination required by the Board but did not complete a Board-approved pharmacy technician training program;

2. Issuance of a registration as a pharmacy technician to a person who (i) has previously practiced as a pharmacy technician in another U.S. jurisdiction and (ii) has passed a national certification examination required by the Board; and

122 3. Evidence of continued competency as a condition of renewal of a registration as a pharmacy
123 technician.

124 D. The Board shall waive the initial registration fee for a pharmacy technician applicant who works
125 as a pharmacy technician exclusively in a free clinic pharmacy. A person registered pursuant to this
126 subsection shall be issued a limited-use registration. A pharmacy technician with a limited-use
127 registration shall not perform pharmacy technician tasks in any setting other than a free clinic pharmacy.
128 The Board shall also waive renewal fees for such limited-use registrations. A pharmacy technician with
129 a limited-use registration may convert to an unlimited registration by paying the current renewal fee.

130 E. Any person registered as a pharmacy technician prior to the effective date of regulations
131 implementing the provisions of this section shall not be required to comply with the requirements of
132 subsection B in order to maintain or renew registration as a pharmacy technician.

133 F. A pharmacy technician trainee enrolled in a training program for pharmacy technicians described
134 in subdivision B 2 may engage in the acts set forth in subsection A for the purpose of obtaining
135 practical experience required for completion of the training program, so long as such activities are
136 directly monitored by a supervising pharmacist.

137 G. To be registered as a pharmacy technician trainee, a person shall submit an application and a fee
138 specified in regulations of the Board. Such registration shall only be valid while the person is enrolled
139 in a pharmacy technician training program described in subsection B and actively progressing toward
140 completion of such program. A registration card issued pursuant to this section shall be invalid and shall
141 be returned to the Board if such person fails to enroll in a pharmacy technician training program
142 described in subsection B.

143 H. A pharmacy intern may perform the duties set forth for pharmacy technicians in subsection A
144 when registered with the Board for the purpose of gaining the practical experience required to apply for
145 licensure as a pharmacist.

146 **2. That the Board of Medicine, in collaboration with the Board of Pharmacy and the Department**
147 **of Health, shall establish a statewide protocol for the initiation of treatment with and dispensing**
148 **and administering of drugs and devices by pharmacists in accordance with § 54.1-3303.1 of the**
149 **Code of Virginia, as amended by this act, by November 1, 2022, and the Board of Pharmacy shall**
150 **promulgate regulations to implement the provisions of the first enactment of this act to be effective**
151 **within 280 days of its enactment. Such regulations shall include provisions for ensuring that**
152 **physical settings in which treatment is provided pursuant to this act shall be in compliance with**
153 **the federal Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d et seq., as**
154 **amended.**

155 **3. That the provisions of subdivisions B 1 and 3 of § 54.1-3303.1 of the Code of Virginia, as**
156 **amended by this act, shall become effective upon the expiration of the provisions of the federal**
157 **Public Readiness and Emergency Preparedness Act COVID-19 PREP Act Declarations related to**
158 **the vaccination and COVID-19 testing of minors.**