

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 2754

By Delegates Summers, Tully, Forsht, Heckert,

Petitto, Jefferies and Espinosa

[Originating in the Committee on Health and Human

Resources; Reported on January 19, 2023]

1 A BILL to amend and reenact §30-5-7 and §30-5-12 of the Code of West Virginia, 1931, as
2 amended, relating to immunizations performed in a pharmacy; permitting a pharmacy
3 technician to perform an immunization; updating rulemaking authority; and reducing the
4 age of a recipient.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS
AND PHARMACIES.**

§30-5-7. Rule-making authority.

1 (a) The board shall propose rules for legislative approval, in accordance with the
2 provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article and §60A-2-
3 201 *et seq.*, §60A-3-301 *et seq.*, §60A-8-1 *et seq.*, §60A-9-1 *et seq.*, and §60A-10-1 *et seq.* of this
4 code, including:

5 (1) Standards and requirements for a license, permit, and registration;

6 (2) Educational and experience requirements;

7 (3) Procedures for examinations and reexaminations;

8 (4) Requirements for third parties to prepare, administer or prepare, and administer
9 examinations and reexaminations;

10 (5) The passing grade on the examination;

11 (6) Procedures for the issuance and renewal of a license, permit, and registration;

12 (7) A fee schedule;

13 (8) Continuing education requirements;

14 (9) Set standards for professional conduct;

15 (10) Establish equipment and facility standards for pharmacies;

16 (11) Approve courses and standards for training pharmacist technicians;

17 (12) Regulation of charitable clinic pharmacies;

18 (13) Regulation of mail-order pharmacies: *Provided*, That until the board establishes
19 requirements that provide further conditions for pharmacists who consult with or who provide
20 pharmacist care to patients regarding prescriptions dispensed in this state by a mail-order
21 pharmacy, the pharmacist in charge of the out-of-state mail-order pharmacy shall be licensed in
22 West Virginia and any other pharmacist providing pharmacist care from the mail-order pharmacy
23 shall be licensed in the state where the pharmacy is located;

24 (14) Agreements with organizations to form pharmacist recovery networks;

25 (15) Create an alcohol or chemical dependency treatment program;

26 (16) Establish a ratio of pharmacy technicians to on-duty pharmacist operating in any
27 outpatient, mail order, or institutional pharmacy;

28 (17) Regulation of telepharmacy;

29 (18) The minimum standards for a charitable clinic pharmacy and rules regarding the
30 applicable definition of a pharmacist-in-charge, who may be a volunteer, at charitable clinic
31 pharmacies: *Provided*, That a charitable clinic pharmacy may not be charged any applicable
32 licensing fees and such clinics may receive donated drugs;

33 (19) Establish standards for substituted drug products;

34 (20) Establish the regulations for E-prescribing;

35 (21) Establish the proper use of the automated data processing system;

36 (22) Registration and control of the manufacture and distribution of controlled substances
37 within this state;

38 (23) Regulation of pharmacies;

39 (24) Sanitation and equipment requirements for wholesalers, distributors, and pharmacies;

40 (25) Procedures for denying, suspending, revoking, reinstating, or limiting the practice of a
41 licensee, permittee, or registrant;

42 (26) Regulations on prescription paper as provided in §16-5-27 of this code;

43 (27) Regulations on controlled substances as provided in §60A-2-201 *et seq.* of this code;

44 (28) Regulations on manufacturing, distributing, or dispensing any controlled substance as
45 provided in §60A-3-301 of this code;

46 (29) Regulations on wholesale drug distribution as provided in §60A-8-1 *et seq.* of this
47 code;

48 (30) Regulations on controlled substances monitoring as provided in §60A-9-1 *et seq.* of
49 this code;

50 (31) Regulations on Methamphetamine Laboratory Eradication Act as provided in §60A-
51 10-1 *et seq.* of this code;

52 (32) Establish and maintain an official prescription paper program; and

53 (33) Any other rules necessary to effectuate the provisions of this article.

54 (b) The board may provide an exemption to the pharmacist-in-charge requirement for the
55 opening of a new retail pharmacy or during a declared emergency.

56 (c) The board, the Board of Medicine, and the Board of Osteopathic Medicine shall jointly
57 agree and propose rules concerning collaborative pharmacy practice for legislative approval in
58 accordance with the provisions of §29A-3-1 *et seq.* of this code.

59 (d) The board, with the advice of the Board of Medicine and the Board of Osteopathic
60 Medicine, shall propose rules for legislative approval in accordance with the provisions of §29A-3-
61 1 *et seq.* of this code to perform influenza and pneumonia immunizations on a person of 18 years
62 of age or older. These rules shall provide, at a minimum, for the following:

63 (1) Establishment of a course, or provide a list of approved courses, in immunization
64 administration. The courses shall be based on the standards established for such courses by the
65 Centers for Disease Control and Prevention in the public health service of the United States
66 Department of Health and Human Services;

67 (2) Definitive treatment guidelines which shall include, but not be limited to, appropriate
68 observation for an adverse reaction of an individual following an immunization;

69 (3) Prior to administration of immunizations, a pharmacist shall have completed a board-
70 approved immunization administration course and completed an American Red Cross or
71 American Heart Association basic life-support training, and maintain certification in the same;

72 (4) Continuing education requirements for this area of practice;

73 (5) Reporting requirements for pharmacists administering immunizations to report to the
74 primary care physician or other licensed health care provider as identified by the person receiving
75 the immunization;

76 (6) Reporting requirements for pharmacists administering immunizations to report to the
77 West Virginia Statewide Immunization Information;

78 (7) That a pharmacist may not delegate the authority to administer immunizations to any
79 other person, unless administered by a licensed pharmacy intern or registered pharmacy
80 technician under the direct supervision of a pharmacist of whom ~~both~~ the pharmacist, the
81 pharmacist technician and intern have successfully completed all board-required training; and

82 (8) Any other provisions necessary to implement the provisions of this section.

83 (e) The Board of Medicine and the Board of Osteopathic Medicine shall propose joint rules,
84 by July 1, 2023, for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of
85 this code to permit a licensed pharmacist, pharmacy technician or pharmacy intern to administer
86 immunizations in accordance with definitive treatment guidelines for immunizations promulgated
87 by the latest notice from the U.S. Department of Health and Human Services, Centers for Disease
88 Control and Prevention (CDC), including, but not limited to, the CDC's recommended
89 immunization schedule for adults, children, and adolescents. In addition, the joint rules shall
90 permit a licensed pharmacist, pharmacy technician or pharmacy intern to administer
91 immunizations in accordance with definitive treatment guidelines for immunizations promulgated
92 by the latest notice from the CDC, including, but not limited to, the CDC's recommended
93 immunization schedule for adults, children, and adolescents to a person age 44 3 through 17, with
94 written informed parental consent ~~when presented with a prescription from a physician and there~~

95 are no contraindications to that patient receiving that vaccine. These rules shall provide, at a
96 minimum, the same provisions contained in subsections (d)(1) through (d)(8), inclusive, of this
97 section.

98 (f) All of the board's rules in effect and not in conflict with these provisions shall remain in
99 effect until they are amended or rescinded.

§30-5-12. Scope practice for registered pharmacy technician.

1 (a) A registered pharmacy technician shall, under the direct supervision of the licensed
2 pharmacist, perform at a minimum the following:

- 3 (1) Assist in the dispensing process;
- 4 (2) Receive new written or electronic prescription drug orders;
- 5 (3) Compound;
- 6 (4) Stock medications;
- 7 (5) Complete a list of a patient's current prescription and nonprescription medications to
8 provide for medication reconciliation;
- 9 (6) Supervise registered pharmacy technicians and pharmacy technician trainees;
- 10 (7) Medical records screening; ~~and~~
- 11 (8) Administer immunizations, as provided by legislative rule; and
- 12 (9) Perform pharmacy technician product verification, where no clinical judgment is
13 necessary and the pharmacist makes the final verification; if the registered pharmacy technician
14 furnishes to the Board an affidavit signed and dated by the supervising pharmacist-in-charge of
15 the facility which will employ the applicant attesting to the applicant's competency in the
16 advanced areas of practice that he or she will practice; and has either:
 - 17 (A) Worked as a full-time registered pharmacy technician holding a pharmacy technician
18 endorsement in West Virginia for at least the previous two years; or
 - 19 (B) Worked as a full-time registered pharmacy technician holding a pharmacy technician
20 license in good standing in another jurisdiction for at least the previous two years.

21 (b) A registered pharmacy technician may perform the following under indirect supervision
22 of a licensed pharmacist:

23 (1) Process medical coverage claims; and

24 (2) Cashier.

25 (c) A registered pharmacy technician may not perform the following:

26 (1) Drug regimen review;

27 (2) Clinical conflict resolution;

28 (3) Contact a prescriber concerning prescription drug order clarification or therapy
29 modification;

30 (4) Patient counseling;

31 (5) Dispense process validation;

32 (6) Prescription transfer;

33 (7) Receive new oral prescription drug orders;

34 (8) An act within the practice of pharmacist care that involves discretion or independent
35 professional judgment; or

36 (9) A function which the registrant has not been trained and the function has not been
37 specified in a written protocol with competency established.

38 (d) Indirect supervision of a registered pharmacy technician is permitted to allow a
39 pharmacist to take one break of no more than 30 minutes during any contiguous eight-hour period.
40 The pharmacist may leave the pharmacy area but may not leave the building during the break.
41 When a pharmacist is on break, a pharmacy technician may continue to prepare prescriptions for
42 the pharmacist(s) verification. A prescription may not be delivered until the pharmacist has verified
43 the accuracy of the prescription, and counseling, if required, has been provided to or refused by
44 the patient.

45 (e) A pharmacy that permits indirect supervision of a pharmacy technician during a
46 pharmacist(s) break shall have either an interactive voice response system or a voice mail system

47 installed on the pharmacy phone line in order to receive new prescription orders and refill
48 authorizations during the break.

49 (f) The pharmacy shall establish protocols that require a registered pharmacy technician to
50 interrupt the pharmacist's break if an emergency arises.

51 (g) A registered pharmacy technician who has obtained a nuclear pharmacy technician
52 endorsement, may under the direct supervision of the licensed nuclear pharmacist, perform the
53 following:

54 (1) Assist in the dispensing process;

55 (2) Receive new written or electronic prescription drug orders;

56 (3) Mix compound ingredients for liquid products, suspensions, ointments, mixes, or blend
57 for tablet granulations and capsule powders;

58 (4) Prepare radiopharmaceuticals;

59 (5) Record keeping;

60 (6) File and organize prescriptions;

61 (7) Create reports;

62 (8) Inventory tasks;

63 (9) Handle raw materials and intermediate or finished products;

64 (10) Perform general maintenance as required on pumps, homogenizers, filter presses,
65 tablet compression machines, and other like machines;

66 (11) Perform standard operating procedures to meet current good manufacturing practices
67 (GMP);

68 (12) Maintain records;

69 (13) Monitor and verify quality in accordance with statistical process or other control
70 procedures; and

71 (14) Stock medications.

- 72 (h) A registered pharmacy technician who has obtained a nuclear pharmacy technician
73 endorsement may not perform the following:
- 74 (1) Drug regimen review;
 - 75 (2) Clinical conflict resolution;
 - 76 (3) Contact a prescriber concerning prescription drug order clarification or therapy
77 modification;
 - 78 (4) Receive new oral prescription drug orders.

NOTE: The purpose of this bill is to permit pharmacy technician to perform immunizations.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.