

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 544**

SENATORS IHLENFELD, ROMANO, AND STOLLINGS,

*original sponsors*

[Passed February 18, 2020; in effect 90 days from  
passage]



1 AN ACT to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating  
2 to immunizations; authorizing joint rules regulating the administration of immunizations;  
3 requiring those rules to be based on certain standards; permitting a licensee to perform  
4 immunizations based on the Center for Disease Control and Prevention’s recommended  
5 schedule; requiring written parental permission for immunizations of minors; requiring a  
6 prescription for immunization of a minor; and requiring that the joint rules permits a  
7 licensee to administer immunizations in accordance with the latest definitive treatment  
8 guidelines promulgated by the Center for Disease Control and Prevention guidelines.

*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-  
3 2-201 *et seq.*, §60A-3-301 *et seq.*, §60A-8-1 *et seq.*, §60A-9-1 *et seq.*, and §60A-10-1 *et seq.* of  
4 this 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  
41 a 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  
45 as 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-  
61 3-1 *et seq.* of this code to perform influenza and pneumonia immunizations on a person of 18  
62 years 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 under the direct supervision of  
80 a pharmacist of whom both pharmacist and intern have successfully completed all board-required  
81 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 for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to permit  
85 a licensed pharmacist or pharmacy intern to administer immunizations in accordance with  
86 definitive treatment guidelines for immunizations promulgated by the latest notice from the U.S.  
87 Department of Health and Human Services, Centers for Disease Control and Prevention (CDC),  
88 including, but not limited to, the CDC's recommended immunization schedule for adults, children,  
89 and adolescents. In addition, the joint rules shall permit a licensed pharmacist or pharmacy intern  
90 to administer immunizations in accordance with definitive treatment guidelines for immunizations

91 promulgated by the latest notice from the CDC, including, but not limited to, the CDC's  
92 recommended immunization schedule for adults, children, and adolescents to a person age 11  
93 through 17, with written informed parental consent when presented with a prescription from a  
94 physician and there are no contraindications to that patient receiving that immunization. These  
95 rules shall provide, at a minimum, the same provisions contained in subsections (d)(1) through  
96 (d)(8), inclusive, of this section.

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





The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2020.

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*Governor*