

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2265

BY DELEGATES ROHRBACH, PACK, J., SUMMERS, REED,

WARD, G., FORSHT, SMITH, STEELE, ESPINOSA, AND

WORRELL

[Introduced February 10, 2021; Referred to the
Committee on Health and Human Resources then
Government Organization]

1 A BILL to amend and reenact §30-5-7 and §30-5-19 of the Code of West Virginia, 1931, as
2 amended, relating to collaborative pharmacy practice and updating rulemaking authority.

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
40 pharmacies;

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

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

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

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

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

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

51 (31) Regulations on Methamphetamine Laboratory Eradication Act as provided in §60A-
52 10-1 *et seq.* of this code;

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

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

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

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

60 The board, with the advice of the Board of Medicine and the Board of Osteopathic
61 Medicine, shall propose rules for legislative approval in accordance with the provisions of §29A-
62 3-1 *et seq.* of this code concerning collaborative pharmacy practice.

63 (d) The board, with the advice of the Board of Medicine and the Board of Osteopathic
64 Medicine, shall propose rules for legislative approval in accordance with the provisions of §29A-
65 3-1 *et seq.* of this code to perform influenza and pneumonia immunizations on a person of 18
66 years of age or older. These rules shall provide, at a minimum, for the following:

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

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

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

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

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

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

82 (7) That a pharmacist may not delegate the authority to administer immunizations to any
83 other person, unless administered by a licensed pharmacy intern under the direct supervision of
84 a pharmacist of whom both pharmacist and intern have successfully completed all board-required
85 training; and

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

87 (e) The Board of Medicine and the Board of Osteopathic Medicine shall propose joint rules
88 for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to permit
89 a licensed pharmacist or pharmacy intern to administer immunizations in accordance with
90 definitive treatment guidelines for immunizations promulgated by the latest notice from the U.S.
91 Department of Health and Human Services, Centers for Disease Control and Prevention (CDC),
92 including, but not limited to, the CDC's recommended immunization schedule for adults, children,
93 and adolescents. In addition, the joint rules shall permit a licensed pharmacist or pharmacy intern
94 to administer immunizations in accordance with definitive treatment guidelines for immunizations
95 promulgated by the latest notice from the CDC, including, but not limited to, the CDC's

96 recommended immunization schedule for adults, children, and adolescents to a person age 11
97 through 17, with written informed parental consent when presented with a prescription from a
98 physician and there are no contraindications to that patient receiving that vaccine. These rules
99 shall provide, at a minimum, the same provisions contained in subsections (d)(1) through (d)(8),
100 inclusive, of this section.

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

§30-5-19. Collaborative pharmacy practice agreement.

1 (a) A pharmacist engaging in collaborative pharmacy practice shall have on file at his or
2 her place of practice the collaborative pharmacy practice agreement. The existence and
3 subsequent termination of the agreement and any additional information the rules may require
4 concerning the agreement, including the agreement itself, shall be made available to the
5 appropriate licensing board for review upon request. The agreement may allow the pharmacist,
6 within the pharmacist's scope of practice pursuant to the collaborative pharmacy practice
7 agreement, to conduct drug therapy management activities approved by the collaborating
8 physician. The collaborative pharmacy practice agreement shall be a voluntary process, which is
9 a physician directed approach, that is entered into between an individual physician or physician
10 group, an individual pharmacist or pharmacists and an individual patient or the patient's
11 authorized representative who has given informed consent as per subsection (c).

12 (b) A collaborative pharmacy practice agreement may authorize a pharmacist to provide
13 drug therapy management. In instances where drug therapy is discontinued, the pharmacist shall
14 notify the treating physician of the discontinuance in the time frame and in the manner established
15 by ~~joint~~ legislative rules. Each protocol developed, pursuant to the collaborative pharmacy

16 practice agreement, shall contain detailed direction concerning the services that the pharmacists
17 may perform for that patient. The protocol shall include, but need not be limited to:

18 (1) The specific drug or drugs to be managed by the pharmacist;

19 (2) The terms and conditions under which drug therapy may be implemented, modified or
20 discontinued;

21 (3) The conditions and events upon which the pharmacist is required to notify the
22 physician; and

23 (4) The laboratory tests that may be ordered in accordance with drug therapy
24 management.

25 (c) All activities performed by the pharmacist in conjunction with the protocol shall be
26 documented in the patient's medical record. The pharmacists shall report at least every 30 days
27 to the physician regarding the patient's drug therapy management. The collaborative pharmacy
28 practice agreement and protocols shall be available for inspection by the board, the West Virginia
29 Board of Medicine, or the West Virginia Board of Osteopathic Medicine, depending on the
30 licensing board of the participating physician. A copy of the protocol shall be filed in the patient's
31 medical record.

32 (d) Collaborative pharmacy agreements may not include the management of controlled
33 substances.

34 (e) A collaborative pharmacy practice agreement, meeting the requirements herein
35 established and in accordance with ~~joint~~ legislative rules, shall be allowed in the hospital setting,
36 the nursing home setting, the medical school setting and the hospital, community-based
37 pharmacy setting and ambulatory care clinics. The pharmacist shall be employed by or under
38 contract to provide services to the hospital, pharmacy, nursing home or medical school, or hold a
39 faculty appointment with one of the schools of pharmacy or medicine in this state.

40 (f) Nothing pertaining to collaborative pharmacy practice shall be interpreted to permit a
41 pharmacist to accept delegation of a physician's authority outside the limits included in the
42 appropriate board's statute and rules.

NOTE: The purpose of this bill is to provide legislative rule-making authority to the Board of Pharmacy concerning collaborative pharmacy practice.

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