

# VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

## CHAPTER 28

*An Act to amend and reenact §§ 37.2-500, 37.2-601, 54.1-3420.2, and 54.1-3423 of the Code of Virginia, relating to possession, storage, and dispensing of medications by community services boards, behavioral health authorities, and crisis stabilization units.*

[H 150]

Approved March 4, 2010

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-500, 37.2-601, 54.1-3420.2, and 54.1-3423 of the Code of Virginia are amended and reenacted as follows:**

§ 37.2-500. Purpose; community services board; services to be provided.

The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, mental retardation, and substance abuse services in the Commonwealth, may provide funds to assist any city or county or any combinations of cities or counties or cities and counties in the provision of these services. Every county or city shall establish a community services board by itself or in any combination with other cities and counties, unless it establishes a behavioral health authority pursuant to Chapter 6 (§ 37.2-600 et seq.) of this title. Every county or city or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.

The core of services provided by community services boards within the cities and counties that they serve shall include emergency services and, subject to the availability of funds appropriated for them, case management services. The core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, mental retardation, and substance abuse services necessary to provide individualized services and supports to persons with mental illnesses, mental retardation, or substance abuse. *Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.*

In order to provide comprehensive mental health, mental retardation, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, mental retardation, and substance abuse services.

§ 37.2-601. Behavioral health authorities; purpose.

The Department, for the purposes of establishing, maintaining, and promoting the development of behavioral health services in the Commonwealth, may provide funds to assist certain cities or counties in the provision of these services.

The governing body of the Cities of Virginia Beach or Richmond or the County of Chesterfield may establish a behavioral health authority and shall declare its intention to do so by resolution.

The behavioral health services provided by behavioral health authorities within the cities or counties they serve shall include emergency services and, subject to the availability of funds appropriated for them, case management services. The behavioral health services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, mental retardation, and substance abuse services necessary to provide individualized services and supports to persons with mental illnesses, mental retardation, or substance abuse. *Behavioral health authorities may establish crisis stabilization units that provide residential crisis stabilization services.*

In order to provide comprehensive mental health, mental retardation, and substance abuse services within a continuum of care, the behavioral health authority shall function as the single point of entry into publicly funded mental health, mental retardation, and substance abuse services.

§ 54.1-3420.2. Delivery of prescription drug order.

A. Whenever any pharmacy permitted to operate in this Commonwealth or nonresident pharmacy registered to conduct business in the Commonwealth delivers a prescription drug order by mail, common carrier, or delivery service, when the drug order is not personally hand delivered directly, to the patient or his agent at the person's residence or other designated location, the following conditions shall be required:

1. Written notice shall be placed in each shipment alerting the consumer that under certain circumstances chemical degradation of drugs may occur; and

2. Written notice shall be placed in each shipment providing a toll-free or local consumer access

telephone number which is designed to respond to consumer questions pertaining to chemical degradation of drugs.

B. If a prescription drug order *for a Schedule VI controlled substance* is not personally hand delivered directly to the patient or the patient's agent, or if the prescription drug order is not delivered to the residence of the patient, the delivery location shall hold a current permit, license, or registration with the Board that authorizes the possession of controlled substances at that location. The Board shall promulgate regulations related to the security, access, required records, accountability, storage, and accuracy of delivery of such drug delivery systems. *Schedule II through Schedule V controlled substances shall be delivered to an alternate delivery location only if such delivery is authorized by federal law and regulations of the Board.*

C. *Prescription drug orders dispensed to a patient and delivered to a community services board or behavioral health authority facility licensed by the Department of Behavioral Health and Developmental Services upon the signed written request of the patient or the patient's legally authorized representative may be stored, retained, and repackaged at the facility on behalf of the patient for subsequent delivery or administration. The repackaging of a dispensed prescription drug order retained by a community services board or behavioral health authority facility for the purpose of assisting a client with self-administration pursuant to this subsection shall only be performed by a pharmacist, pharmacy technician, nurse, or other person who has successfully completed a Board-approved training program for repackaging of prescription drug orders as authorized by this subsection. The Board shall promulgate regulations relating to training, packaging, labeling, and record keeping for such repackaging.*

D. *Prescription drug orders dispensed to a patient and delivered to a Virginia Department of Health or local health department clinic upon the signed written request of a patient, a patient's legally authorized representative, or a Virginia Department of Health district director or his designee may be stored and retained at the clinic on behalf of the patient for subsequent delivery or administration.*

§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
2. Compliance with applicable state and local law;
3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;
4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research with controlled substances in Schedules II through VI. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A of this section in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register an animal shelter or pound as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II-VI controlled substances approved by the State Veterinarian for the

purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals; and to purchase, possess, and administer certain Schedule VI controlled substances for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter or pound. The drugs used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs used for treatment and prevention of communicable diseases within the animal shelter or pound shall be determined by the supervising veterinarian of the shelter or pound and the drugs shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter or pound and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter or pound shall maintain a copy of the approved list of drugs, written protocols for administering, and training records of those persons administering drugs on the premises of the shelter or pound.

*F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.*

G. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

~~G.~~ H. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within fourteen days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**