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SENATE BILL NO. 1096

Offered January 12, 2011

Prefiled January 11, 2011

A *BILL to amend and reenact § 54.1-3434 of the Code of Virginia, relating to pharmacies; access to Prescription Monitoring Program.*

Patron—Hanger

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3434 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3434. Permit to conduct pharmacy.

No person shall conduct a pharmacy without first obtaining a permit from the Board.

The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmacy and who will be fully engaged in the practice of pharmacy at the location designated on the application.

The application shall (i) show the corporate name and trade name, (ii) list any pharmacist in addition to the pharmacist-in-charge practicing at the location indicated on the application, and (iii) list the hours during which the pharmacy will be open to provide pharmacy services. Any change in the hours of operation, which is expected to last more than one week, shall be reported to the Board in writing and posted, at least fourteen days prior to the anticipated change, in a conspicuous place to provide notice to the public. The Board shall promulgate regulations to provide exceptions to this prior notification.

If the owner is other than the pharmacist making the application, the type of ownership shall be indicated and shall list any partner or partners, and, if a corporation, then the corporate officers and directors. Further, if the owner is not a pharmacist, he shall not abridge the authority of the pharmacist-in-charge to exercise professional judgment relating to the dispensing of drugs in accordance with this act and Board regulations.

The permit shall be issued only to the pharmacist who signs the application as the pharmacist-in-charge and as such assumes the full responsibilities for the legal operation of the pharmacy. This permit and responsibilities shall not be construed to negate any responsibility of any pharmacist or other person.

Upon termination of practice by the pharmacist-in-charge, or upon any change in partnership composition, or upon the acquisition, as defined in Board regulations, of the existing corporation by another person or the closing of a pharmacy, the permit previously issued shall be immediately surrendered to the Board by the pharmacist-in-charge to whom it was issued, or by his legal representative, and an application for a new permit may be made in accordance with the requirements of this chapter.

The Board shall promulgate regulations (i) defining acquisition of an existing permitted, registered or licensed facility or of any corporation under which the facility is directly or indirectly organized; (ii) providing for the transfer, confidentiality, integrity, and security of the pharmacy's prescription dispensing records and other patient records, regardless of where located; and (iii) establishing a reasonable time period for designation of a new pharmacist-in-charge. At the conclusion of the time period for designation of a new pharmacist-in-charge, a pharmacy which has failed to designate a new pharmacist-in-charge shall not operate as a pharmacy nor maintain a stock of prescription drugs on the premises. The Director shall immediately notify the owner of record that the pharmacy no longer holds a valid permit and that the owner shall make provision for the proper disposition of all Schedule II through VI drugs and devices on the premises within fifteen days of receipt of this notice. At the conclusion of the fifteen-day period, the Director or his authorized agent shall seize and indefinitely secure all Schedule II through VI drugs and devices still on the premises, and notify the owner of such seizure. The Director may properly dispose of the seized drugs and devices after six months from the date of the notice of seizure if the owner has not claimed and provided for the proper disposition of the property. The Board shall assess a fee of not less than the cost of storage of said drugs upon the owner for reclaiming seized property.

The succeeding pharmacist-in-charge shall cause an inventory to be made of all Schedule I, II, III, IV and V drugs on hand. Such inventory shall be completed as of the date he becomes pharmacist-in-charge and prior to opening for business on that date.

The pharmacist to whom such permit is issued shall provide safeguards against diversion of all controlled substances.

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59 An application for a pharmacy permit shall be accompanied by a fee determined by the Board. All
60 permits shall expire annually on a date determined by the Board in regulation.

61 Every pharmacy ~~must~~ *shall* be equipped so that prescriptions can be properly filled. The Board of
62 Pharmacy shall prescribe the minimum of such professional and technical equipment and reference
63 material which a pharmacy shall at all times possess. *Such regulations shall include a requirement that*
64 *(i) every pharmacy permitted pursuant to this section shall ensure that at least one pharmacist who is*
65 *physically present at the pharmacy shall have access to the Prescription Monitoring Program*
66 *established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) at all times, and (ii) nothing shall prevent a*
67 *pharmacist who is eligible to receive information from the Prescription Monitoring Program from*
68 *requesting and receiving such information.* No permit shall be issued or continued for the conduct of a
69 pharmacy until or unless there is compliance with the provisions of this chapter and regulations
70 promulgated by the Board.

71 Each day during which a person is in violation of this section shall constitute a separate offense.