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HOUSE BILL NO. 184

Offered January 10, 2018
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A BILL to amend and reenact § 54.1-3410 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3411.3, relating to the Drug Control Act; dispensing drugs without a prescription.

Patron—Hayes

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3410 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3411.3 as follows:

§ 54.1-3410. When pharmacist may sell and dispense drugs.

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed~~,~~ a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 ~~of this section~~.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

E. (Effective July 1, 2020) No pharmacist shall dispense a controlled substance that contains an opiate unless the prescription for such controlled substance is issued as an electronic prescription.

F. A pharmacist, acting in good faith, may sell and dispense a drug classified in Schedule VI to a person without record of a prescription of a prescriber in accordance with § 54.1-3411.3.

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§ 54.1-3411.3. Dispensing prescription drugs following disaster.

A. A pharmacist, acting in good faith, may sell and dispense a supply, not to exceed a five-day supply based on its intended dosage, of a drug classified in Schedule VI to an individual without a prescription provided to the pharmacist if:

1. The individual provides the pharmacist with evidence sufficient to establish that:

a. The individual has been displaced from his place of residence as a result of a disaster as defined in § 44-146.16;

b. Until the time of his displacement from his residence, the individual had been in lawful possession of the drug pursuant to a prescription provided to another pharmacist in the Commonwealth;

c. The individual's supply of the drug has been lost, destroyed, or otherwise rendered unusable as a consequence of the disaster;

d. By reason of mental illness, intellectual disability, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause creating a lack of sufficient understanding or capacity to recall or communicate information, the individual is unable provide the pharmacist with the identity of any of the following: (i) the identity of the prescriber; (ii) the identity of pharmacist or pharmacy in possession of the prescriber's prescription; or (iii) information regarding the individual's health insurance coverage that would allow the pharmacist to determine the identity of the prescriber, pharmacy, or pharmacist; and

e. The individual's health would be in danger without the benefits of the drug;

2. The pharmacist determines with a reasonable degree of certainty that the requested drug and dosage level are consistent with the drug and its dosage level that had been prescribed to the individual at the time of his displacement from his residence; and

3. During the period for which the drug has been dispensed, the pharmacist diligently attempts to ascertain the identity of the prescriber and the identity of the pharmacist or pharmacy in possession of the prescriber's prescription and, upon obtaining such information, contacts the prescriber, pharmacist, or pharmacy and takes such additional reasonable action as will permit the individual to obtain a new or renewal prescription and resume obtaining the drug pursuant to his prescription from such pharmacist or pharmacy.

B. Notwithstanding anything in subsection A:

1. The drug prescribed and dispensed shall be limited to the amount needed to treat the individual during the period for which the drug is dispensed;

2. Any dispensing of the drug beyond such period shall be pursuant to a written prescription;

3. If the pharmacist ascertains the identity of the pharmacist or pharmacy in possession of the individual's prescription and thereupon learns that the prescription is not renewable, the pharmacist shall not thereafter dispense the drug to the individual without complying with the provisions of §§ 54.1-3410 and 54.1-3411; and

4. The provisions of this section shall not authorize a pharmacist to dispense drugs if doing so would violate applicable federal law. ldtitle>