

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 739

An Act to amend and reenact §§ 32.1-162.5:1 and 54.1-3411.2 of the Code of Virginia, relating to home hospice programs; disposal of drugs; opioids.

[S 913]

Approved April 6, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-162.5:1 and 54.1-3411.2 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-162.5:1. Notice to dispenser of patient's death; disposition of dispensed drugs.

A. Any hospice licensed by the Department or exempt from licensure pursuant to § 32.1-162.2 with a hospice patient residing at home at the time of death shall notify every pharmacy that has dispensed partial quantities of a Schedule II controlled substance for a patient with a medical diagnosis documenting a terminal illness, as authorized by federal law, within 48 hours of the patient's death.

B. Any hospice licensed by the Department or exempt from licensure pursuant to § 32.1-162.2 shall develop policies and procedures for the disposal of drugs, *including opioids*, dispensed as part of the hospice plan of care in accordance with the provisions of § 54.1-3411.2.

§ 54.1-3411.2. Prescription drug disposal programs.

A. As used in this section:

"Authorized pharmacy disposal site" means a pharmacy that qualifies as a collection site pursuant to 21 C.F.R. § 1317.40.

"Pharmacy drug disposal program" means any voluntary drug disposal program located at or operated in accordance with state and federal law by a pharmacy.

B. A pharmacy may participate in a pharmacy drug disposal program in accordance with state and federal law regarding proper collection, storage, and destruction of prescription drugs, including controlled and noncontrolled substances. A pharmacy that chooses to participate in a pharmacy drug disposal program shall notify the Board, and the Board shall maintain a list of all pharmacies in the Commonwealth that have chosen to participate in a pharmacy drug disposal program on a website maintained by the Board.

C. No person that participates in a pharmacy drug disposal program shall be liable for any theft, robbery, or other criminal act related to its participation in the pharmacy drug disposal program nor shall such person be liable for acts of simple negligence in the collection, storage, or destruction of prescription drugs collected through such pharmacy drug disposal program, provided that the pharmacy practice site is acting in good faith and in accordance with applicable state and federal law and regulations.

D. In order to mitigate the risk of diversion of drugs upon the death of a patient, any hospice licensed by the Department or exempt from licensure pursuant to § 32.1-162.2 shall develop policies and procedures for the disposal of drugs, *including opioids*, dispensed as part of the hospice plan of care. Such disposal shall be (i) performed in a manner that complies with all state and federal requirements for the safe disposal of drugs by a licensed nurse, physician assistant, or physician who is employed by or has entered into a contract with the hospice program; (ii) witnessed by a member of the patient's family or a second employee of the hospice program who is licensed by a health regulatory board within the Department of Health Professions; and (iii) documented in the patient's medical record.