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HOUSE BILL NO. 2365

House Amendments in [ ] — February 2, 1995

A BILL to amend and reenact §§ 54.1-3307 and 54.1-3408 of the Code of Virginia, relating to the Board of Pharmacy and the Drug Control Act.

Patrons—Davies, Abbitt, Albo, Behm, Cantor, Connally, Cooper, Croshaw, Crouch, Cunningham, Hamilton, McDonnell, Mims, Morgan, Nixon, Reid, Rhodes, Spruill, Thomas and Van Yahres; Senators: Holland, C.A., Lambert, Lucas, Potts, Quayle and Robb

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Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3307 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3307. Specific powers and duties of Board.

The Board shall regulate the practice of pharmacy and the manufacturing, dispensing, selling, distributing, processing, compounding, or disposal of drugs, cosmetics and devices. The Board shall also control the character and standard of all drugs, cosmetics and devices within the Commonwealth, investigate all complaints as to the quality and strength of all drugs, cosmetics, and devices and take such action as may be necessary to prevent the manufacturing, dispensing, selling, distributing, processing, compounding and disposal of such drugs, cosmetics and devices which do not conform to the requirements of law. In so regulating the Board shall consider any of the following criteria as they are applicable:

1. Maintenance of the quality, quantity, integrity, safety and efficacy of drugs or devices distributed, dispensed or administered.

2. Compliance with the prescriber's instructions regarding the drug, its quantity, quality and directions for use.

3. Controls and safeguards against diversion of drugs or devices.

4. Maintenance of the integrity of, and public confidence in, the profession and improving the delivery of quality pharmaceutical services to the citizens of Virginia.

5. Maintenance of complete records of the nature, quantity or quality of drugs or substances distributed or dispensed, of all transactions involving controlled substances or drugs or devices so as to provide adequate information to the patient, the practitioner or the Board.

6. Control of factors contributing to abuse of legitimately obtained drugs, devices, or controlled substances.

7. Promotion of scientific or technical advances in the practice of pharmacy and the manufacture and distribution of controlled drugs, devices or substances.

8. [~~*Control*~~ ~~*of*~~ *Impact on*] *costs to the public and within the health care industry through the* [~~*elimination*~~ *modification*] *of mandatory practices and procedures not essential to meeting the criteria set out in subdivisions 1 through 7 of this section.*

9. Such other factors as may be relevant to, and consistent with, the public health and safety *and the cost of rendering pharmacy services*.

The Board may collect and examine specimens of drugs, devices and cosmetics which are manufactured, stored or dispensed in this Commonwealth.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, or dentistry, a licensed nurse practitioner pursuant to § 54.1-2957.01 or a licensed physician's assistant pursuant to § 54.1-2952.1 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice. The practitioner may prescribe, on a written prescription or on oral prescription as authorized by this chapter, and administer drugs and devices, or he may cause them to be administered by a nurse or intern under his direction and supervision, or a practitioner may prescribe and cause drugs and devices to be administered to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the State Mental Health, Mental Retardation and Substance Abuse Services Board by other persons who have been trained to properly administer drugs and who administer drugs only under the control and supervision of the practitioner or a pharmacist. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent certified by the Board of Dentistry who has satisfactorily completed a training program for this purpose that is approved by the Board of Dentistry.

No written prescription order form shall include more than one prescription. This provision shall not

apply, however, to the entry of any order on a patient's chart in any hospital *or any long-term care facility, as defined in Board regulations,* in Virginia or to a prescription ordered through the pharmacy operated by the Department of Corrections, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Such a prescription shall be written, dated, and signed by the person prescribing on the day when issued, and shall bear the full name and address of the patient for whom the drug is prescribed, 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.

This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration, when the drugs administered would be normally self-administered by (i) a resident of a facility licensed or certified by the State Mental Health, Mental Retardation and Substance Abuse Services Board; (ii) a resident of any adult care residence which is licensed by the Department of Social Services; (iii) a resident of the Virginia Rehabilitation Center for the Blind; (iv) a resident of a facility approved by the Board or Department of Youth and Family Services for the placement of children in need of services or delinquent or alleged delinquent youth; or (v) a program participant of an adult day care center licensed by the Department of Social Services.

This section shall not interfere with any practitioner issuing prescriptions in compliance with the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such practitioner shall be deemed to be valid prescriptions. This section shall not prohibit a practitioner from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

B. The written prescription referred to in subsection A of this section shall be written with ink or individually typed and each prescription shall be manually signed by the practitioner. The prescription may be prepared by an agent for his signature. The prescription shall contain the name, address, telephone number, and federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand.

C. Pursuant to § 32.1-87, the prescription form shall include two boxes, one labelled "Voluntary Formulary Permitted" and the other labelled "Dispense As Written." A prescriber may indicate his permission for the dispensing of a drug product included in the Formulary upon signing a prescription form and marking the box labelled "Voluntary Formulary Permitted." A Voluntary Formulary product shall be dispensed if the prescriber fails to indicate his preference. If no Voluntary Formulary product is immediately available, or if the patient objects to the dispensing of a generic drug, the pharmacist may dispense a brand name drug. On and after July 1, 1993, printed prescription forms shall provide:

" ☐ Dispense As Written
☐ Voluntary Formulary Permitted
.....
Signature of prescriber
If neither box is marked, a Voluntary Formulary product must be dispensed."

D. Practitioners' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications device over telephone lines which send the exact image to the receiver in hard-copy form, and such facsimile copy shall be treated as a valid, original prescription order.