

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 468

*An Act to amend and reenact §§ 54.1-2926, 54.1-3422, 54.1-3423 and 54.1-3424 of the Code of Virginia, relating to the regulation of controlled substances.*

[S 292]

Approved April 1, 1996

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

**1. That §§ 54.1-2926, 54.1-3422, 54.1-3423 and 54.1-3424 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2926. Powers of Board with respect to practitioners licensed to practice pharmacy.

The Board of Medicine shall have, with respect to practitioners of medicine, homeopathy, osteopathy, or podiatry, the same powers conferred upon the Board of Pharmacy with respect to pharmacists, to revoke or suspend the license to dispense drugs issued under § 54.1-3304 or § 54.1-3304.1 or to prescribe the medicines to be possessed or dispensed by such practitioner or to revoke the registration of such practitioner issued under Chapter 34 (§ 54.1-3400 et seq.) of this title. The Board of Medicine shall promptly report any such action taken to the Board of Pharmacy, and the revoked license shall not be reissued nor shall the person be ~~registered~~ *licensed* anew, except upon recommendation of the Board of Medicine.

§ 54.1-3422. Controlled substances registration certificate required in addition to other requirements; exemptions.

A. Every person who manufactures, distributes or dispenses any substance which is controlled in Schedules I through V or who proposes to engage in the manufacture, distribution or dispensing of any such controlled substance except ~~licensed~~ *permitted* pharmacies, ~~and~~ those persons who are licensed pharmacists, *and those persons who are licensed practitioners of medicine, osteopathy, podiatry, dentistry, or veterinary medicine* shall obtain annually a controlled substances registration certificate issued by the Board. This registration shall be in addition to other licensing or permitting requirements enumerated in this chapter or otherwise required by law.

B. Registration under this section and under all other applicable registration requirements shall entitle the registrant to possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by this registration and in conformity with the other provisions of this chapter.

C. The following persons need not register and may possess controlled substances in Schedules I through V:

1. An agent or employee of any holder of a controlled substance registration certificate if he is acting in the usual course of his business or employment;

2. A common or contract carrier or warehouseman, or his employee, whose possession is in the usual course of business or employment; or

3. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

D. A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

§ 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 dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this Commonwealth. The Board need not require separate registration under this section for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this section in another capacity. 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. 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.

§ 54.1-3424. Suspension or revocation of registration, license or permit; limitation to particular controlled substance; controlled substances placed under seal; sale of perishables and forfeiture; notification to DEA.

A. A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Board upon a finding that the registrant:

1. Has furnished false or fraudulent material information in an application filed under this chapter;
2. Has been convicted of a felony under any state or federal law relating to any controlled substance;
3. Has had his federal registration to manufacture, distribute or dispense controlled substances suspended or revoked;
4. Has violated or cooperated with others in violating any provision of this chapter or regulations of the Board relating to the manufacture, distribution or dispensing of controlled substances.

B. The Board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

C. If the Board suspends or revokes a registration, *or if the license or permit of a person possessing Schedule I through V controlled substances under an exemption in § 54.1-3422 A is suspended or revoked by the issuing board*, all controlled substances owned or possessed by the registrant, licensee or permittee at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances shall be forfeited to the Commonwealth.

D. The Board shall promptly notify the DEA of all orders suspending or revoking registration and all forfeitures of controlled substances.