

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 171

An Act to amend and reenact § 54.1-3303.1 of the Code of Virginia, relating to pharmacist scope of practice; initiation of treatment for certain diseases and conditions.

[H 2274]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3303.1 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3303.1. Initiating of treatment with and dispensing and administering of controlled substances by pharmacists.

A. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs, devices, controlled paraphernalia, and other supplies and equipment to persons 18 years of age or older with whom the pharmacist has a bona fide pharmacist-patient relationship and in accordance with a statewide protocol developed by the Board in collaboration with the Board of Medicine and the Department of Health and set forth in regulations of the Board:

1. Naloxone or other opioid antagonist, including such controlled paraphernalia, as defined in § 54.1-3466, as may be necessary to administer such naloxone or other opioid antagonist;

2. Epinephrine;

3. Injectable or self-administered hormonal contraceptives, provided the patient completes an assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use;

4. Prenatal vitamins for which a prescription is required;

5. Dietary fluoride supplements, in accordance with recommendations of the American Dental Association for prescribing of such supplements for persons whose drinking water has a fluoride content below the concentration recommended by the U.S. Department of Health and Human Services;

6. Drugs as defined in § 54.1-3401, devices as defined in § 54.1-3401, controlled paraphernalia as defined in § 54.1-3466, and other supplies and equipment available over-the-counter, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, device, controlled paraphernalia, or other supplies or equipment;

7. Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19;

8. Tuberculin purified protein derivative for tuberculosis testing;

9. Controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention;

10. Nicotine replacement and other tobacco cessation therapies, including controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), together with providing appropriate patient counseling; and

11. *Controlled substances or devices for the initiation of treatment of the following diseases or conditions for which clinical decision making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988: group A Streptococcus bacteria infection, influenza virus infection, COVID-19 virus infection, and urinary tract infection; and*

~~11.~~ 12. Tests for COVID-19 and other coronaviruses.

B. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs and devices to persons three years of age or older in accordance with a statewide protocol as set forth in regulations of the Board:

1. (Contingent Effective Date) Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19; and

2. (Contingent Effective Date) Tests for COVID-19 and other coronaviruses.

C. A pharmacist who initiates treatment with or dispenses or administers a drug or device pursuant to this section shall notify the patient's primary health care provider that the pharmacist has initiated treatment with such drug or device or that such drug or device has been dispensed or administered to the patient, provided that the patient consents to such notification. No pharmacist shall limit the ability of notification to be sent to the patient's primary care provider by requiring use of electronic mail that is secure or compliant with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). If the patient does not have a primary health care provider, the pharmacist shall counsel the patient regarding the benefits of establishing a relationship with a primary health care provider and provide information regarding primary health care providers, including federally qualified health centers, free clinics, or local health departments serving the area in which the patient is located. If

the pharmacist is initiating treatment with, dispensing, or administering injectable or self-administered hormonal contraceptives, the pharmacist shall counsel the patient regarding seeking preventative care, including (i) routine well-woman visits, (ii) testing for sexually transmitted infections, and (iii) pap smears.

D. A pharmacist who administers a vaccination pursuant to subdivisions A 7 and B 1 shall report such administration to the Virginia Immunization Information System in accordance with the requirements of § 32.1-46.01.

E. A pharmacist who initiates treatment with, dispenses, or administers drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section shall obtain a history from the patient, including questioning the patient for any known allergies, adverse reactions, contraindications, or health diagnoses or conditions that would be adverse to the initiation of treatment, dispensing, or administration.

F. A pharmacist may initiate treatment with, dispense, or administer drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section through telemedicine services, as defined in § 38.2-3418.16, in compliance with all requirements of § 54.1-3303 and consistent with the applicable standard of care.

G. A pharmacist who administers a vaccination to a minor pursuant to subdivision B 1 shall provide written notice to the minor's parent or guardian that the minor should visit a pediatrician annually.

2. That the Board of Pharmacy shall adopt a statewide protocol for the initiation of treatment with and dispensing and administering of drugs and devices by pharmacists in accordance with § 54.1-3303.1 of the Code of Virginia, as amended by this act, by November 1, 2023. Such protocol shall be developed by a work group consisting of representatives from the Board of Pharmacy, the Board of Medicine, and the Department of Health. The work group shall have an equal number of members who are representatives of the Board of Pharmacy and the Board of Medicine.

3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of the first enactment of this act to be effective within 280 days of its enactment. Such regulations shall include provisions for ensuring that physical settings in which treatment is provided pursuant to this act shall be in compliance with the federal Health Insurance Portability and Accountability Act, 42 U.S.C. § 1302d et seq., as amended.