

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 544

SENATORS IHLENFELD, ROMANO, AND STOLLINGS,

original sponsors

[Originating in the Committee on Health and Human

Resources; reported on January 31, 2020]

1 A BILL to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating
2 to authorizing the Board of Pharmacy, the Board of Medicine, and the Board of
3 Osteopathic Medicine to propose joint rules to permit a licensed pharmacist and a
4 pharmacy intern to administer vaccines in accordance with the Center for Disease Control
5 and Prevention's latest definitive treatment guidelines promulgated by the U.S.
6 Department of Health and Human Resources, Centers for Disease Control and Prevention
7 (CDC); and requiring that such joint rules shall permit a licensed pharmacist or pharmacy
8 intern to administer immunizations in accordance with the latest definitive treatment
9 guidelines promulgated by the CDC guidelines.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS,
AND PHARMACIES.**

§30-5-7. Rule-making authority.

1 (a) The board shall propose rules for legislative approval, in accordance with the
2 provisions of ~~article three, chapter twenty-nine~~ ~~a~~ §29A-3-1 et seq. of this code, to implement the
3 provisions of this article and ~~articles two~~ §60A-2-201 et seq., ~~three~~ §60A-3-301 et seq., ~~eight~~ §60A-
4 8-1 et seq., ~~nine~~ §60A-9-1 et seq., and ~~10~~ §60A-10-1 et seq. of this code, including:

- 5 (1) Standards and requirements for a license, permit, and registration;
- 6 (2) Educational and experience requirements;
- 7 (3) Procedures for examinations and reexaminations;
- 8 (4) Requirements for third parties to prepare, administer or prepare, and administer
9 examinations and reexaminations;
- 10 (5) The passing grade on the examination;
- 11 (6) Procedures for the issuance and renewal of a license, permit, and registration;
- 12 (7) A fee schedule;

- 13 (8) Continuing education requirements;
- 14 (9) Set standards for professional conduct;
- 15 (10) Establish equipment and facility standards for pharmacies;
- 16 (11) Approve courses and standards for training pharmacist technicians;
- 17 (12) Regulation of charitable clinic pharmacies;
- 18 (13) Regulation of mail-order pharmacies: *Provided*, That until the board establishes
- 19 requirements that provide further conditions for pharmacists ~~whom~~ who consult with or who
- 20 provide pharmacist care to patients regarding prescriptions dispensed in this state by a mail-order
- 21 pharmacy, the pharmacist in charge of the out-of-state mail-order pharmacy shall be licensed in
- 22 West Virginia and any other pharmacist providing pharmacist care from the mail-order pharmacy
- 23 shall be licensed in the state where the pharmacy is located;
- 24 (14) Agreements with organizations to form pharmacist recovery networks;
- 25 (15) Create an alcohol or chemical dependency treatment program;
- 26 (16) Establish a ratio of pharmacy technicians to on-duty pharmacist operating in any
- 27 outpatient, mail order, or institutional pharmacy;
- 28 (17) Regulation of telepharmacy;
- 29 (18) The minimum standards for a charitable clinic pharmacy and rules regarding the
- 30 applicable definition of a pharmacist-in-charge, who may be a volunteer, at charitable clinic
- 31 pharmacies: *Provided*, That a charitable clinic pharmacy may not be charged any applicable
- 32 licensing fees and such clinics may receive donated drugs;
- 33 (19) Establish standards for substituted drug products;
- 34 (20) Establish the regulations for E-prescribing;
- 35 (21) Establish the proper use of the automated data processing system;
- 36 (22) Registration and control of the manufacture and distribution of controlled substances
- 37 within this state;
- 38 (23) Regulation of pharmacies;

39 (24) Sanitation and equipment requirements for wholesalers, distributors, and
40 pharmacies;

41 (25) Procedures for denying, suspending, revoking, reinstating, or limiting the practice of
42 a licensee, permittee, or registrant;

43 (26) Regulations on prescription paper as provided in §16-5-27 of this code;

44 (27) Regulations on controlled substances as provided in ~~article two, chapter sixty-a~~ §60A-
45 2-201 et seq. of this code;

46 (28) Regulations on manufacturing, distributing, or dispensing any controlled substance
47 as provided in ~~article three, chapter sixty-a~~ §60A-3-301 of this code;

48 (29) Regulations on wholesale drug distribution as provided in ~~article eight, chapter sixty-~~
49 ~~a~~ §§60A-8-1 et seq. of this code;

50 (30) Regulations on controlled substances monitoring as provided in ~~article nine, chapter~~
51 ~~sixty-a~~ §60A-9-1 et seq. of this code;

52 (31) Regulations on Methamphetamine Laboratory Eradication Act as provided in ~~article~~
53 ~~ten, chapter sixty-a~~ §60A-10-1 et seq. of this code;

54 (32) Establish and maintain an official prescription paper program; and

55 (33) Any other rules necessary to effectuate the provisions of this article.

56 (b) The board may provide an exemption to the pharmacist-in-charge requirement for the
57 opening of a new retail pharmacy or during a declared emergency.

58 (c) The board, the Board of Medicine, and the Board of Osteopathic Medicine shall jointly
59 agree and propose rules concerning collaborative pharmacy practice for legislative approval in
60 accordance with the provisions of ~~article three, chapter twenty-nine-a~~ §29A-3-1 et seq. of the this
61 code.

62 (d) The board, with the advice of the Board of Medicine and the Board of Osteopathic
63 Medicine, shall propose rules for legislative approval in accordance with the provisions of ~~article~~
64 ~~three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code to perform influenza and pneumonia

65 immunizations on a person of 18 years of age or older. These rules shall provide, at a minimum,
66 for the following:

67 (1) Establishment of a course, or provide a list of approved courses, in immunization
68 administration. The courses shall be based on the standards established for such courses by the
69 Centers for Disease Control and Prevention in the public health service of the United States
70 Department of Health and Human Services;

71 (2) Definitive treatment guidelines which shall include, but not be limited to, appropriate
72 observation for an adverse reaction of an individual following an immunization;

73 (3) Prior to administration of immunizations, a pharmacist shall have completed a board-
74 approved immunization administration course and completed an American Red Cross or
75 American Heart Association basic life-support training, and maintain certification in the same;

76 (4) Continuing education requirements for this area of practice;

77 (5) Reporting requirements for pharmacists administering immunizations to report to the
78 primary care physician or other licensed health care provider as identified by the person receiving
79 the immunization;

80 (6) Reporting requirements for pharmacists administering immunizations to report to the
81 West Virginia Statewide Immunization Information;

82 (7) That a pharmacist may not delegate the authority to administer immunizations to any
83 other person, unless administered by a licensed pharmacy intern under the direct supervision of
84 a pharmacist of whom both pharmacist and intern have successfully completed all board-required
85 training; and

86 (8) Any other provisions necessary to implement the provisions of this section.

87 (e) The Board of Medicine and the Board of Osteopathic Medicine shall propose joint rules
88 for legislative approval in accordance with the provisions of ~~article three, chapter twenty nine a~~
89 §29A-3-1 et seq. of this code to permit a licensed pharmacist or pharmacy intern to administer
90 ~~other immunizations such as Hepatitis A, Hepatitis B, Herpes Zoster, Human Papilloma Virus,~~

91 ~~and Tetanus~~ in accordance with definitive treatment guidelines for immunizations promulgated by
92 the latest notice from the U.S. Department of Health and Human Services, Centers for Disease
93 Control and Prevention (CDC), including, but not limited to, the CDC's recommended
94 immunization schedule for adults, children, and adolescents. In addition, the joint rules shall
95 permit a licensed pharmacist or pharmacy intern to administer ~~influenza and Human Papilloma~~
96 ~~Virus immunizations to a person age eleven through eighteen, with written informed parental~~
97 ~~consent when presented with a prescription from a physician and there are no contraindications~~
98 ~~to that patient receiving that vaccine~~ immunizations in accordance with definitive treatment
99 guidelines for immunizations promulgated by the latest notice from the CDC, including, but not
100 limited to, the CDC's recommended immunization schedule for adults, children, and adolescents
101 to a person age 11 through 17, with written informed parental consent when presented with a
102 prescription from a physician and there are no contraindications to that patient receiving that
103 vaccine. These rules shall provide, at a minimum, the same provisions contained in subsections
104 (d)(1) through (d)(8), inclusive, of this section.

105 (f) All of the board's rules in effect and not in conflict with these provisions shall remain in
106 effect until they are amended or rescinded.

NOTE: The purpose of this bill is to authorize the Board of Pharmacy, the Board of Medicine, and the Board of Osteopathic Medicine to propose joint rules for legislative approval to permit a licensed pharmacist or pharmacy intern to administer immunizations in accordance with definitive treatment guidelines for immunizations promulgated by the latest notice from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.