

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 753**

By Senators Hunt, Chapman, and Martin

[Introduced February 12, 2024; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on the Judiciary]

1 A BILL to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating to  
 2 authorizing the West Virginia Board of Pharmacy to propose a legislative rule establishing  
 3 regulations permitting prescription of Schedule V drugs.

*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 §29A-3-1 *et seq.* of this code, to implement the provisions of this article and §60A-2-  
 3 201 *et seq.*, §60A-3-301 *et seq.*, §60A-8-1 *et seq.*, §60A-9-1 *et seq.*, and §60A-10-1 *et seq.* of this  
 4 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 who consult with or who provide  
20 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 pharmacies;

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

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

43 (27) Regulations on controlled substances as provided in §60A-2-201 *et seq.* of this code;

44 (28) Regulations on manufacturing, distributing, or dispensing any controlled substance as

45 provided in §60A-3-301 of this code;

46 (29) Regulations on wholesale drug distribution as provided in §60A-8-1 *et seq.* of this  
47 code;

48 (30) Regulations on controlled substances monitoring as provided in §60A-9-1 *et seq.* of  
49 this code;

50 (31) Regulations on Methamphetamine Laboratory Eradication Act as provided in §60A-  
51 10-1 *et seq.* of this code;

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

53 (33) Establishing regulations permitting prescription of Schedule 5 (V) drugs; and

54 ~~(33)~~ (34) Any other rules necessary to effectuate the provisions of this article.

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

57 (c) The board, the Board of Medicine, and the Board of Osteopathic Medicine shall jointly  
58 agree and propose rules concerning collaborative pharmacy practice for legislative approval in  
59 accordance with the provisions of §29A-3-1 *et seq.* of this code.

60 (d) The board, with the advice of the Board of Medicine and the Board of Osteopathic  
61 Medicine, shall propose rules for legislative approval in accordance with the provisions of §29A-3-  
62 1 *et seq.* of this code to perform influenza and pneumonia immunizations on a person of 18 years  
63 of age or older. These rules shall provide, at a minimum, for the following:

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

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

70 (3) Prior to administration of immunizations, a pharmacist shall have completed a board-

71 approved immunization administration course and completed an American Red Cross or  
72 American Heart Association basic life-support training, and maintain certification in the same;

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

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

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

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

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

84 (e) The Board of Medicine and the Board of Osteopathic Medicine shall propose joint rules,  
85 by July 1, 2023, for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of  
86 this code to permit a licensed pharmacist, pharmacy technician or pharmacy intern to administer  
87 immunizations in accordance with definitive treatment guidelines for immunizations promulgated  
88 by the latest notice from the U.S. Department of Health and Human Services, Centers for Disease  
89 Control and Prevention (CDC), including, but not limited to, the CDC's recommended  
90 immunization schedule for adults, children, and adolescents. In addition, the joint rules shall  
91 permit a licensed pharmacist, pharmacy technician or pharmacy intern to administer  
92 immunizations in accordance with definitive treatment guidelines for immunizations promulgated  
93 by the latest notice from the CDC, including, but not limited to, the CDC's recommended  
94 immunization schedule for adults, children, and adolescents to a person age 3 through 17, with  
95 written informed parental consent and there are no contraindications to that patient receiving that  
96 vaccine. These rules shall provide, at a minimum, the same provisions contained in subsections

97 (d)(1) through (d)(8), inclusive, of this section.

98 (f) All of the board's rules in effect and not in conflict with these provisions shall remain in

99 effect until they are amended or rescinded.

NOTE: The purpose of this bill is to authorize the West Virginia Board of Pharmacy to propose a legislative rule establishing regulations permitting prescription of Schedule 5 (V) drugs.

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