WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

FILED
2020 MAR -5 P 5:06
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SB 544

Enrolled

Committee Substitute

for

Senate Bill 544

SENATORS IHLENFELD, ROMANO, AND STOLLINGS,

original sponsors

[Passed February 18, 2020; in effect 90 days from passage]

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AN ACT to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating to immunizations; authorizing joint rules regulating the administration of immunizations; requiring those rules to be based on certain standards; permitting a licensee to perform immunizations based on the Center for Disease Control and Prevention's recommended schedule; requiring written parental permission for immunizations of minors; requiring a prescription for immunization of a minor; and requiring that the joint rules permits a licensee to administer immunizations in accordance with the latest definitive treatment guidelines promulgated by the Center for Disease Control and Prevention 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.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article and §60A-2-201 *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 code, including:

(1) Standards and requirements for a license, permit, and registration;

(2) Educational and experience requirements;

(3) Procedures for examinations and reexaminations;

(4) Requirements for third parties to prepare, administer or prepare, and administer examinations and reexaminations;

(5) The passing grade on the examination;

(6) Procedures for the issuance and renewal of a license, permit, and registration;

(7) A fee schedule;

(8) Continuing education requirements;

(9) Set standards for professional conduct;

(10) Establish equipment and facility standards for pharmacies;

(11) Approve courses and standards for training pharmacist technicians;

(12) Regulation of charitable clinic pharmacies;

(13) Regulation of mail-order pharmacies: *Provided,* That until the board establishes requirements that provide further conditions for pharmacists who consult with or who provide pharmacist care to patients regarding prescriptions dispensed in this state by a mail-order pharmacy, the pharmacist in charge of the out-of-state mail-order pharmacy shall be licensed in West Virginia and any other pharmacist providing pharmacist care from the mail-order pharmacy shall be licensed in the state where the pharmacy is located;

(14) Agreements with organizations to form pharmacist recovery networks;

(15) Create an alcohol or chemical dependency treatment program;

(16) Establish a ratio of pharmacy technicians to on-duty pharmacist operating in any outpatient, mail order, or institutional pharmacy;

(17) Regulation of telepharmacy;

(18) The minimum standards for a charitable clinic pharmacy and rules regarding the applicable definition of a pharmacist-in-charge, who may be a volunteer, at charitable clinic pharmacies: *Provided*, That a charitable clinic pharmacy may not be charged any applicable licensing fees and such clinics may receive donated drugs;

(19) Establish standards for substituted drug products;

(20) Establish the regulations for E-prescribing;

(21) Establish the proper use of the automated data processing system;

(22) Registration and control of the manufacture and distribution of controlled substances within this state;

(23) Regulation of pharmacies;

(24) Sanitation and equipment requirements for wholesalers, distributers, and pharmacies;

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

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

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

(28) Regulations on manufacturing, distributing, or dispensing any controlled substance as provided in §60A-3-301 of this code;

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

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

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

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

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

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

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

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

(1) Establishment of a course, or provide a list of approved courses, in immunization administration. The courses shall be based on the standards established for such courses by the

Centers for Disease Control and Prevention in the public health service of the United States Department of Health and Human Services;

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

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

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

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

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

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

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

(e) The Board of Medicine and the Board of Osteopathic Medicine shall propose joint rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code 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 (CDC), including, but not limited to, the CDC's recommended immunization schedule for adults, children, and adolescents. In addition, the joint rules shall 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 CDC, including, but not limited to, the CDC's recommended immunization schedule for adults, children, and adolescents to a person age 11 through 17, with written informed parental consent when presented with a prescription from a physician and there are no contraindications to that patient receiving that immunization. These rules shall provide, at a minimum, the same provisions contained in subsections (d)(1) through (d)(8), inclusive, of this section.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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The within ....is approved..... this the....5th.....

Day of .....March....., 2020.

.....
Governor

PRESENTED TO THE GOVERNOR

FEB 2 8 2020

Time 4:42pm