

SENATE BILL NO. 672

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on February 10, 2022)

(Patron Prior to Substitute--Senator Dunnivant)

A BILL to amend and reenact §§ 54.1-3303.1 and 54.1-3321 of the Code of Virginia, relating to pharmacists and pharmacy technicians; prescribing, dispensing, and administering of controlled substances.

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

**1. That §§ 54.1-3303.1 and 54.1-3321 of the Code of Virginia are 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;

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

32 7. Vaccines included on the Immunization Schedule published by the Centers for Disease Control  
33 and Prevention ~~or that have a current emergency use authorization from the U.S. Food and Drug~~  
34 ~~Administration~~ and vaccines for COVID-19;

35 8. Tuberculin purified protein derivative for tuberculosis testing; ~~and~~

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

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

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

46 12. Tests for COVID-19 and other coronaviruses.

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

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

52           2. Injectable or self-administered hormonal contraceptives, provided that the patient completes an  
53 assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use and, if the  
54 patient is a minor, has a prescription from a health care provider; and

55           3. Tests for COVID-19 and other coronaviruses.

56           ~~B.~~C. A pharmacist who initiates treatment with or dispenses or administers a drug or device  
57 pursuant to this section shall notify the patient's primary health care provider that the pharmacist has  
58 initiated treatment with such drug or device or that such drug or device has been dispensed or administered  
59 to the patient, provided that the patient consents to such notification. No pharmacist shall limit the ability  
60 of notification to be sent to the patient's primary care provider by requiring use of electronic mail that is  
61 secure or compliant with the federal Health Insurance Portability and Accountability Act (42 U.S.C.  
62 §1320d et seq.). If the patient does not have a primary health care provider, the pharmacist shall counsel  
63 the patient regarding the benefits of establishing a relationship with a primary health care provider and,  
64 upon request, provide information regarding primary health care providers, including federally qualified  
65 health centers, free clinics, or local health departments serving the area in which the patient is located. If  
66 the pharmacist is initiating treatment with, dispensing, or administering injectable or self-administered  
67 hormonal contraceptives, the pharmacist shall counsel the patient regarding seeking preventative care,  
68 including (i) routine well-woman visits, (ii) testing for sexually transmitted infections, and (iii) pap  
69 smears.

70           ~~C.~~D. A pharmacist who administers a vaccination pursuant to ~~subdivision~~ subdivisions A 7 and B  
71 1 shall report such administration to the Virginia Immunization Information System in accordance with  
72 the requirements of § 32.1-46.01.

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

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

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

84 **§ 54.1-3321. Registration of pharmacy technicians.**

85 A. No person shall perform the duties of a pharmacy technician without first being registered as a  
86 pharmacy technician with the Board. Upon being registered with the Board as a pharmacy technician, the  
87 following tasks may be performed:

88 1. The entry of prescription information and drug history into a data system or other record keeping  
89 system;

90 2. The preparation of prescription labels or patient information;

91 3. The removal of the drug to be dispensed from inventory;

92 4. The counting, measuring, or compounding of the drug to be dispensed;

93 5. The packaging and labeling of the drug to be dispensed and the repackaging thereof;

94 6. The stocking or loading of automated dispensing devices or other devices used in the dispensing  
95 process;

96 7. The acceptance of refill authorization from a prescriber or his authorized agency, so long as  
97 there is no change to the original prescription;~~and~~

98 8. Under the supervision of a pharmacist, meaning the supervising pharmacist is at the same  
99 physical location of the technician or pharmacy intern, and consistent with the requirements of § 54.1-  
100 3303.1, administration of the following drugs and devices to persons three years of age or older as set  
101 forth in regulations of the Board: vaccines included on the Immunization Schedule published by the  
102 Centers for Disease Control and Prevention and vaccines for COVID-19; and

103 ~~8-9.~~ The performance of any other task restricted to pharmacy technicians by the Board's  
104 regulations.

105 B. To be registered as a pharmacy technician, a person shall submit:

106 1. An application and fee specified in regulations of the Board;

107 2. (Effective July 1, 2022) Evidence that he has successfully completed a training program that is  
108 (i) an accredited training program, including an accredited training program operated through the  
109 Department of Education's Career and Technical Education program or approved by the Board, or (ii)  
110 operated through a federal agency or branch of the military; and

111 3. Evidence that he has successfully passed a national certification examination administered by  
112 the Pharmacy Technician Certification Board or the National Healthcareer Association.

113 C. The Board shall promulgate regulations establishing requirements for:

114 1. Issuance of a registration as a pharmacy technician to a person who, prior to the effective date  
115 of such regulations, (i) successfully completed or was enrolled in a Board-approved pharmacy technician  
116 training program or (ii) passed a national certification examination required by the Board but did not  
117 complete a Board-approved pharmacy technician training program;

118 2. Issuance of a registration as a pharmacy technician to a person who (i) has previously practiced  
119 as a pharmacy technician in another U.S. jurisdiction and (ii) has passed a national certification  
120 examination required by the Board; and

121 3. Evidence of continued competency as a condition of renewal of a registration as a pharmacy  
122 technician.

123 D. The Board shall waive the initial registration fee for a pharmacy technician applicant who works  
124 as a pharmacy technician exclusively in a free clinic pharmacy. A person registered pursuant to this  
125 subsection shall be issued a limited-use registration. A pharmacy technician with a limited-use registration  
126 shall not perform pharmacy technician tasks in any setting other than a free clinic pharmacy. The Board  
127 shall also waive renewal fees for such limited-use registrations. A pharmacy technician with a limited-use  
128 registration may convert to an unlimited registration by paying the current renewal fee.

129 E. Any person registered as a pharmacy technician prior to the effective date of regulations  
130 implementing the provisions of this section shall not be required to comply with the requirements of  
131 subsection B in order to maintain or renew registration as a pharmacy technician.

132 F. A pharmacy technician trainee enrolled in a training program for pharmacy technicians  
133 described in subdivision B 2 may engage in the acts set forth in subsection A for the purpose of obtaining  
134 practical experience required for completion of the training program, so long as such activities are directly  
135 monitored by a supervising pharmacist.

136 G. To be registered as a pharmacy technician trainee, a person shall submit an application and a  
137 fee specified in regulations of the Board. Such registration shall only be valid while the person is enrolled  
138 in a pharmacy technician training program described in subsection B and actively progressing toward  
139 completion of such program. A registration card issued pursuant to this section shall be invalid and shall  
140 be returned to the Board if such person fails to enroll in a pharmacy technician training program described  
141 in subsection B.

142 H. A pharmacy intern may perform the duties set forth for pharmacy technicians in subsection A  
143 when registered with the Board for the purpose of gaining the practical experience required to apply for  
144 licensure as a pharmacist.

145 **2. That the Board of Medicine, in collaboration with the Board of Pharmacy and the Department**  
146 **of Health, shall establish a statewide protocol for the initiation of treatment with and dispensing**  
147 **and administering of drugs and devices by pharmacists in accordance with § 54.1-3303.1 of the Code**  
148 **of Virginia, as amended by this act, by November 1, 2022, and shall promulgate regulations to**  
149 **implement the provisions of the first enactment of this act to be effective within 280 days of its**  
150 **enactment. Such regulations shall include provisions for ensuring that physical settings in which**  
151 **treatment is provided pursuant to this act shall be in compliance with the federal Health Insurance**  
152 **Portability and Accountability Act, 42 U.S.C. § 1320d et seq., as amended.**

153 **3. That the provisions of subdivisions B 1 and 3 of § 54.1-3303.1 of the Code of Virginia, as amended**  
154 **by this act, shall become effective upon the expiration of the provisions of the federal Public**  
155 **Readiness and Emergency Preparedness Act COVID-19 PREP Act Declarations related to the**  
156 **vaccination and COVID-19 testing of minors.**

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