

# SENATE BILL 769

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CF 11r0991

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By: **Senators Conway and Montgomery**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Pharmacy – Pharmacists – Practice of Pharmacy and**  
3 **Licensure**

4 FOR the purpose of altering the definition of “practice pharmacy” for purposes of  
5 certain provisions of law governing pharmacists and pharmacies to include  
6 certain activities or services provided to or on behalf of certain persons in this  
7 State by individuals employed by certain entities; requiring that an individual  
8 be licensed before practicing pharmacy as an employee of certain entities;  
9 requiring nonresident pharmacies to require employees to comply with certain  
10 licensure provisions; and generally relating to the practice of pharmacy and  
11 licensing of pharmacists.

12 BY repealing and reenacting, without amendments,  
13 Article – Health Occupations  
14 Section 12–101(a)  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Health Occupations  
19 Section 12–101(t), 12–301, and 12–403(f)  
20 Annotated Code of Maryland  
21 (2009 Replacement Volume and 2010 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Health Occupations**

25 12–101.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this title the following words have the meanings indicated.

2 (t) (1) "Practice pharmacy" means to engage in any of the following  
3 activities:

4 (i) Providing pharmaceutical care;

5 (ii) Compounding, dispensing, or distributing prescription drugs  
6 or devices;

7 (iii) Compounding or dispensing nonprescription drugs or  
8 devices;

9 (iv) Monitoring prescriptions for prescription and  
10 nonprescription drugs or devices;

11 (v) Providing information, explanation, or recommendations to  
12 patients and health care practitioners about the safe and effective use of prescription  
13 or nonprescription drugs or devices;

14 (vi) Identifying and appraising problems concerning the use or  
15 monitoring of therapy with drugs or devices;

16 (vii) Acting within the parameters of a therapy management  
17 contract, as provided under Subtitle 6A of this title;

18 (viii) Administering an influenza vaccination, a vaccination for  
19 pneumococcal pneumonia or herpes zoster, or any vaccination that has been  
20 determined by the Board, with the agreement of the Board of Physicians and the  
21 Board of Nursing, to be in the best health interests of the community in accordance  
22 with § 12-508 of this title;

23 (ix) Delegating a pharmacy act to a registered pharmacy  
24 technician, pharmacy student, or an individual engaged in a Board approved  
25 pharmacy technician training program;

26 (x) Supervising a delegated pharmacy act performed by a  
27 registered pharmacy technician, pharmacy student, or an individual engaged in a  
28 Board approved pharmacy technician training program; or

29 (xi) Providing drug therapy management in accordance with §  
30 19-713.6 of the Health – General Article.

31 **(2) "PRACTICE PHARMACY" INCLUDES PROVIDING AN ACTIVITY**  
32 **OR A SERVICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO OR ON**  
33 **BEHALF OF A PERSON IN THIS STATE BY AN INDIVIDUAL EMPLOYED BY:**

- 1                   **(I) A NONRESIDENT PHARMACY;**  
2                   **(II) A PHARMACY BENEFITS MANAGER;**  
3                   **(III) A THIRD PARTY PAYOR, AS DEFINED IN § 1-208 OF THIS**  
4 **ARTICLE; OR**
- 5                   **(IV) ANOTHER ENTITY LOCATED IN OR OUTSIDE THIS STATE**  
6 **THAT PROVIDES AN ACTIVITY OR A SERVICE DESCRIBED IN PARAGRAPH (1) OF**  
7 **THIS SUBSECTION TO OR ON BEHALF OF A PERSON IN THIS STATE.**

8                   **[(2)](3)** “Practice pharmacy” does not include the operations of a  
9 person who holds a permit issued under § 12-6C-03 of this title.  
10 12-301.

11           (a) Except as otherwise provided in this title, an individual shall be licensed  
12 by the Board before the individual may practice pharmacy [in]:

- 13                   **(1) IN this State; OR**  
14                   **(2) AS AN EMPLOYEE OF:**
- 15                   **(I) A NONRESIDENT PHARMACY;**  
16                   **(II) A PHARMACY BENEFITS MANAGER;**  
17                   **(III) A THIRD PARTY PAYOR, AS DEFINED IN § 1-208 OF THIS**  
18 **ARTICLE; OR**
- 19                   **(IV) ANOTHER ENTITY LOCATED IN OR OUTSIDE THIS STATE**  
20 **THAT PROVIDES AN ACTIVITY OR A SERVICE DESCRIBED IN §**  
21 **12-101(T)(1) OF THIS TITLE TO OR ON BEHALF OF A PERSON IN THIS STATE.**

22           (b) This section does not apply to a pharmacy student participating in an  
23 experiential learning program of a college or school of pharmacy under the supervision  
24 of a licensed pharmacist.

25 12-403.

26           (f) A nonresident pharmacy shall:

- 27                   (1) Comply with the laws of the state in which it is located;

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1           (2) On an annual basis and within 30 days after a change of office,  
2 corporate officer, or pharmacist, disclose to the Board the location, names, and titles of  
3 all principal corporate officers and all pharmacists who are dispensing prescriptions  
4 for drugs or devices to persons in this State;

5           (3) Comply with all lawful directions and requests for information  
6 from the regulatory or licensing agency of the state in which it is located and all  
7 requests for information made by the Board pursuant to this section;

8           (4) Maintain at all times a valid, unexpired permit to conduct a  
9 pharmacy in compliance with the laws of the state in which it is located;

10           (5) Maintain its records of prescription drugs or devices dispensed to  
11 patients in this State so that the records are readily retrievable;

12           (6) During its regular hours of operation, but not less than 6 days a  
13 week, and for a minimum of 40 hours per week, provide toll-free telephone service to  
14 facilitate communication between patients in this State and a pharmacist who has  
15 access to the patient's prescription records;

16           (7) Disclose its toll-free telephone number on a label affixed to each  
17 container of drugs or devices;

18           (8) Comply with the laws of this State relating to the confidentiality of  
19 prescription records if there are no laws relating to the confidentiality of prescription  
20 records in the state in which the nonresident pharmacy is located; [and]

21           (9) Comply with the requirements of subsection (b)(17) and (20) of this  
22 section; AND

23           **(10) REQUIRE ITS EMPLOYEES TO COMPLY WITH § 12-301(A) OF**  
24 **THIS TITLE.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2011.