

HOUSE BILL 1124

J2

7lr2090

By: **Delegate Platt**

Introduced and read first time: February 9, 2017

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Physician Assistants – Preparing and Dispensing**
3 **Prescriptions**

4 FOR the purpose of authorizing a physician assistant, under certain circumstances, to
5 personally prepare and dispense a drug that the physician assistant may prescribe
6 under a delegation agreement; providing that the Maryland Pharmacy Act does not
7 apply to a physician assistant under certain circumstances; making conforming
8 changes; altering certain definitions; and generally relating to physician assistants
9 preparing and dispensing prescriptions.

10 BY repealing and reenacting, with amendments,
11 Article – Health Occupations
12 Section 12–102(a) and (c) and 15–302.2
13 Annotated Code of Maryland
14 (2014 Replacement Volume and 2016 Supplement)

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

17 **Article – Health Occupations**

18 12–102.

19 (a) (1) In this section the following terms have the meanings indicated.

20 (2) “In the public interest” means the dispensing of drugs or devices by a
21 licensed dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist to a patient when a
22 pharmacy is not conveniently available to the patient.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) "Personally preparing and dispensing" means that the licensed dentist,
2 physician, **PHYSICIAN ASSISTANT**, or podiatrist:

3 (i) Is physically present on the premises where the prescription is
4 filled; and

5 (ii) Performs a final check of the prescription before it is provided to
6 the patient.

7 (c) (1) This subsection does not apply to a licensed dentist who obtains a
8 permit from the State Board of Dental Examiners under subsection (h) of this section.

9 (2) This title does not prohibit:

10 (i) A licensed veterinarian from:

11 1. Personally preparing and dispensing the veterinarian's
12 prescriptions; or

13 2. Dispensing, in accordance with § 2-313(c) of the
14 Agriculture Article, compounded nonsterile preparations or compounded sterile
15 preparations provided by a pharmacy;

16 (ii) A licensed dentist, A physician, [or] A podiatrist, **OR, SUBJECT**
17 **TO § 15-302.2(D) OF THIS ARTICLE, A PHYSICIAN ASSISTANT** from personally
18 preparing and dispensing the dentist's, physician's, **PHYSICIAN ASSISTANT'S**, or
19 podiatrist's prescriptions when:

20 1. The dentist, physician, **PHYSICIAN ASSISTANT**, or
21 podiatrist:

22 A. Has applied to the board of licensure in this State which
23 licensed the dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist;

24 B. Has demonstrated to the satisfaction of that board that the
25 dispensing of prescription drugs or devices by the dentist, physician, **PHYSICIAN**
26 **ASSISTANT**, or podiatrist is in the public interest;

27 C. Has received a written permit from that board to dispense
28 prescription drugs or devices except that a written permit is not required in order to
29 dispense starter dosages or samples without charge; and

30 D. Posts a sign conspicuously positioned and readable
31 regarding the process for resolving incorrectly filled prescriptions or includes written
32 information regarding the process with each prescription dispensed;

1 2. The person for whom the drugs or devices are prescribed
2 is a patient of the prescribing dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist;

3 3. The dentist, physician, **PHYSICIAN ASSISTANT**, or
4 podiatrist does not have a substantial financial interest in a pharmacy; and

5 4. The dentist, physician, **PHYSICIAN ASSISTANT**, or
6 podiatrist:

7 A. Complies with the dispensing and labeling requirements
8 of this title;

9 B. Records the dispensing of the prescription drug or device
10 on the patient's chart;

11 C. Allows the Division of Drug Control to enter and inspect
12 the dentist's, physician's, **PHYSICIAN ASSISTANT'S**, or podiatrist's office at all reasonable
13 hours and in accordance with § 12-102.1 of this subtitle;

14 D. On inspection by the Division of Drug Control, signs and
15 dates an acknowledgment form provided by the Division of Drug Control relating to the
16 requirements of this section;

17 E. Except for starter dosages or samples without charge,
18 provides the patient with a written prescription, maintains prescription files in accordance
19 with § 12-403(c)(13) of this title, and maintains a separate file for Schedule II prescriptions;

20 F. Does not direct patients to a single pharmacist or
21 pharmacy in accordance with § 12-403(c)(8) of this title;

22 G. Does not receive remuneration for referring patients to a
23 pharmacist or pharmacy;

24 H. Complies with the child resistant packaging requirements
25 regarding prescription drugs under Title 22, Subtitle 3 of the Health – General Article;

26 I. Complies with drug recalls;

27 J. Maintains biennial inventories and complies with any
28 other federal and State record-keeping requirements relating to controlled dangerous
29 substances;

30 K. Purchases prescription drugs from a pharmacy or
31 wholesale distributor who holds a permit issued by the Board of Pharmacy, as verified by
32 the Board of Pharmacy;

1 L. Annually reports to the respective board of licensure
2 whether the dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist has personally
3 prepared and dispensed prescription drugs within the previous year; and

4 M. Completes ten continuing education credits over a 5-year
5 period relating to the preparing and dispensing of prescription drugs, offered by the
6 Accreditation Council for Pharmacy Education (ACPE) or as approved by the Secretary, in
7 consultation with each respective board of licensure, as a condition of permit renewal;

8 (iii) A licensed physician who complies with the requirements of item
9 (ii) of this paragraph from personally preparing and dispensing a prescription written by:

10 1. A physician assistant in accordance with a delegation
11 agreement that complies with Title 15, Subtitle 3 of this article; or

12 2. A nurse practitioner who is authorized to practice under
13 Title 8, Subtitle 3 of this article and is working with the physician in the same office setting;
14 or

15 (iv) A hospital-based clinic from dispensing prescriptions to its
16 patients.

17 15-302.2.

18 (a) A primary supervising physician may not delegate prescribing, dispensing,
19 and administering of controlled dangerous substances, prescription drugs, or medical
20 devices unless the primary supervising physician and physician assistant include in the
21 delegation agreement:

22 (1) A notice of intent to delegate prescribing of controlled dangerous
23 substances, prescription drugs, or medical devices;

24 (2) An attestation that all prescribing activities of the physician assistant
25 will comply with applicable federal and State regulations;

26 (3) An attestation that all medical charts or records will contain a notation
27 of any prescriptions written by a physician assistant in accordance with this section;

28 (4) An attestation that all prescriptions written under this section will
29 include the physician assistant's name and the supervising physician's name, business
30 address, and business telephone number legibly written or printed;

31 (5) An attestation that the physician assistant has:

32 (i) Passed the physician assistant national certification exam
33 administered by the National Commission on the Certification of Physician Assistants
34 within the previous 2 years; or

1 (ii) Successfully completed 8 category 1 hours of pharmacology
2 education within the previous 2 years; and

3 (6) An attestation that the physician assistant has:

4 (i) A bachelor's degree or its equivalent; or

5 (ii) Successfully completed 2 years of work experience as a physician
6 assistant.

7 (b) (1) A primary supervising physician may not delegate the prescribing of
8 substances that are identified as Schedule I controlled dangerous substances under §
9 5-402 of the Criminal Law Article.

10 (2) A primary supervising physician may delegate the prescribing of
11 substances that are identified as Schedules II through V controlled dangerous substances
12 under § 5-402 of the Criminal Law Article, including legend drugs as defined under § 503(b)
13 of the Federal Food, Drug, and Cosmetic Act.

14 (3) A primary supervising physician may not delegate the prescribing of
15 controlled dangerous substances to a physician assistant unless the physician assistant has
16 a valid:

17 (i) State controlled dangerous substance registration; and

18 (ii) Federal Drug Enforcement Agency (DEA) registration.

19 (c) A physician assistant personally may dispense a starter dosage or dispense
20 drug samples of any drug the physician assistant is authorized to prescribe to a patient of
21 the physician assistant if:

22 (1) The starter dosage or drug sample complies with the labeling
23 requirements of § 12-505 of this article;

24 (2) No charge is made for the starter dosage; and

25 (3) The physician assistant enters an appropriate record in the patient's
26 medical record.

27 **(D) A PHYSICIAN ASSISTANT PERSONALLY MAY PREPARE AND DISPENSE A**
28 **DRUG THAT THE PHYSICIAN ASSISTANT IS AUTHORIZED TO PRESCRIBE UNDER A**
29 **DELEGATION AGREEMENT IF THE PREPARATION AND DISPENSING OF THE DRUG IS**
30 **DONE IN THE COURSE OF TREATING A PATIENT AT:**

1 **(1) A MEDICAL FACILITY OR CLINIC THAT SPECIALIZES IN THE**
2 **TREATMENT OF MEDICAL CASES REIMBURSABLE THROUGH WORKERS'**
3 **COMPENSATION INSURANCE;**

4 **(2) A MEDICAL FACILITY OR CLINIC THAT IS OPERATED ON A**
5 **NOT-FOR-PROFIT BASIS;**

6 **(3) A HEALTH CENTER THAT OPERATES ON A CAMPUS OF AN**
7 **INSTITUTION OF HIGHER EDUCATION;**

8 **(4) A PUBLIC HEALTH FACILITY;**

9 **(5) A MEDICAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT**
10 **OR A LOCAL HEALTH DEPARTMENT;**

11 **(6) A MEDICAL FACILITY THAT RECEIVES PUBLIC FUNDS; OR**

12 **(7) A NONPROFIT HOSPITAL OR A NONPROFIT HOSPITAL**
13 **OUTPATIENT FACILITY IN ACCORDANCE WITH THE POLICIES ESTABLISHED BY THE**
14 **HOSPITAL.**

15 **[(d)] (E)** A physician assistant who personally dispenses a drug [sample or
16 starter dosage] in the course of treating a patient as authorized under subsection (c) **OR**
17 **(D)** of this section shall comply with the requirements under Titles 12 and 14 of this article
18 and applicable federal law and regulations.

19 **[(e)] (F)** Before a physician assistant may renew a license for an additional
20 2-year term under § 15-307 of this subtitle, the physician assistant shall submit evidence
21 to the Board of successful completion of 8 category 1 hours of pharmacology education
22 within the previous 2 years.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2017.