

HOUSE BILL 1288

J2

(9lr3043)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by **Delegate Barron**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Physicians – Dispensing Permit Exemption – ~~Prepackaged~~ Topical Medication**

3 FOR the purpose of providing that certain provisions of law do not prohibit a certain
4 physician from ~~personally~~ dispensing a ~~prepackaged~~ certain topical medication;
5 ~~establishing a certain exception to the requirement to receive a certain written~~
6 ~~permit~~; authorizing a physician to dispense a certain topical medication if the
7 physician meets certain requirements; authorizing the State Board of Physicians to
8 issue a certain written permit to certain physicians under certain circumstances;
9 defining a certain term; and generally relating to the dispensing of a ~~prepackaged~~
10 ~~topical~~ topical medication by a physician.

11 ~~BY adding to~~

12 ~~Article – Health Occupations~~

13 ~~Section 12-102(c)(2)(iii) and 14-509~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~1 Annotated Code of Maryland~~
~~2 (2014 Replacement Volume and 2018 Supplement)~~

3 BY renumbering

4 Article – Health Occupations
 5 Section 12–102(c)(2)(iii) and (iv), respectively
 6 to be Section 12–102(c)(2)(iv) and (v), respectively
 7 Annotated Code of Maryland
 8 (2014 Replacement Volume and 2018 Supplement)

9 BY repealing and reenacting, ~~with~~ without amendments,

10 Article – Health Occupations
 11 Section ~~12–102(c)(2)(ii)1.C. and (k) through (m)~~ 12–102(c)(2)(iii) and (iv)
 12 12–102(c)(2)(ii)1.C. and 4.M.
 13 Annotated Code of Maryland
 14 (2014 Replacement Volume and 2018 Supplement)

15 BY adding to

16 Article – Health Occupations
 17 Section 12–102(c)(2)(iii) and 14–509
 18 Annotated Code of Maryland
 19 (2014 Replacement Volume and 2018 Supplement)

20 ~~BY adding to~~

21 ~~Article – Health Occupations~~
 22 ~~Section 12–102(k)~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(2014 Replacement Volume and 2018 Supplement)~~

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 26 That Section(s) 12–102(c)(2)(iii) and (iv), respectively, of Article – Health Occupations of the
 27 Annotated Code of Maryland be renumbered to be Section(s) 12–102(c)(2)(iv) and (v),
 28 respectively.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 30 as follows:

31 **Article – Health Occupations**

32 12–102.

33 (c) (2) This title does not prohibit:

34 (ii) ~~A licensed dentist, physician, or podiatrist from personally~~
 35 ~~preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:~~

36 ~~1. The dentist, physician, or podiatrist:~~

~~C. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge OR FOR A PHYSICIAN TO DISPENSE A PREPACKAGED TOPICAL UNDER SUBSECTION (K) OF THIS SECTION; and~~

~~(III) A LICENSED PHYSICIAN WHO COMPLIES WITH THE REQUIREMENTS OF ITEM (II) OF THIS PARAGRAPH FROM DISPENSING A TOPICAL MEDICATION IN ACCORDANCE WITH THE REQUIREMENTS OF § 14-509 OF THIS TITLE THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF HYPOTICHOSIS;~~

(ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:

1. The dentist, physician, or podiatrist:

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

4. The dentist, physician, or podiatrist:

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

~~(III) A LICENSED PHYSICIAN FROM DISPENSING A TOPICAL MEDICATION WITHOUT OBTAINING THE PERMIT REQUIRED UNDER ITEM (II)1C OF THIS PARAGRAPH OR COMPLETING THE CONTINUING EDUCATION REQUIRED UNDER ITEM (II)4M OF THIS PARAGRAPH WHEN THE PHYSICIAN:~~

~~1. OTHERWISE COMPLIES WITH ITEM (II) OF THIS PARAGRAPH; AND~~

~~2. HAS OBTAINED A SPECIAL WRITTEN PERMIT UNDER § 14-509 OF THIS ARTICLE;~~

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

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

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

~~[(iv)] (v) A hospital-based clinic from dispensing prescriptions to its patients.~~

14-509.

~~(k) (1) (A) IN THIS SUBSECTION, “PREPACKAGED TOPICAL” MEANS A PRESCRIPTION STRENGTH CREAM, LOTION, OR SOLUTION THAT:~~

~~(i) IS PACKAGED AT THE SITE OF PRODUCTION; AND~~

~~(ii) REQUIRES NO PREPARATION PRIOR TO DISPENSING.~~

~~(2) THIS TITLE DOES NOT PROHIBIT A PHYSICIAN FROM PERSONALLY DISPENSING A PREPACKAGED TOPICAL. SECTION, “ACCME” MEANS THE ACCREDITING COUNCIL FOR CONTINUING MEDICAL EDUCATION.~~

(B) A PHYSICIAN MAY DISPENSE A TOPICAL MEDICATION THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF HYPOTICHOSIS WITHOUT OBTAINING A DISPENSING PERMIT OR COMPLETING THE CONTINUING EDUCATION REQUIRED UNDER § 12-102(C)(2)(II) OF THIS ARTICLE IF THE PHYSICIAN:

(1) COMPLIES OTHERWISE COMPLIES WITH THE REQUIREMENTS OF § 12-102(C)(2)(II) OF THIS ARTICLE; AND

(2) HAS RECEIVED A SPECIAL CLASS OF WRITTEN PERMIT FROM THE BOARD.

(C) THE BOARD MAY ISSUE A SPECIAL CLASS OF WRITTEN PERMIT TO A PHYSICIAN UNDER SUBSECTION (B) OF THIS SECTION IF THE PHYSICIAN:

(1) COMPLETES 1 HOUR OF CONTINUING MEDICAL EDUCATION PER YEAR ON THE DISPENSING OF TOPICAL MEDICATIONS DEVELOPED BY AN ACCME-ACCREDITED MARYLAND NONPROFIT OR GOVERNMENTAL ENTITY; AND

(2) PAYS TO THE BOARD A \$100 PERMIT FEE.

~~[(k)] (L) This title does not limit the right of a general merchant to sell:~~

~~(1) Any nonprescription drug or device;~~

1 ~~(2) Any commonly used household or domestic remedy; or~~

2 ~~(3) Any farm remedy or ingredient for a spraying solution, in bulk or~~
3 ~~otherwise.~~

4 ~~[(1)] (M) The Board of Pharmacy, the Board of Dental Examiners, the Board of~~
5 ~~Physicians, and the Board of Podiatric Medical Examiners annually shall report to the~~
6 ~~Office of Controlled Substances Administration.~~

7 ~~(1) The names and addresses of its licensees who are authorized to~~
8 ~~personally prepare and dispense prescription drugs; and~~

9 ~~(2) The names and addresses of its licensees who have reported, in~~
10 ~~accordance with subsection (e)(2)(ii)4L of this section, that they have personally prepared~~
11 ~~and dispensed prescription drugs within the previous year.~~

12 ~~[(m)] (N) A dentist, physician, or podiatrist who fails to comply with the~~
13 ~~provisions of this section governing the dispensing of prescription drugs or devices shall:~~

14 ~~(1) Have the dispensing permit revoked; and~~

15 ~~(2) Be subject to disciplinary actions by the appropriate licensing board.~~

16 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.