
By: **Senator Collins**
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CHAPTER _____

1 AN ACT concerning

2 **Licensed Physical Therapists ~~and~~ Licensed Physical Therapist Assistants,**
3 **and Licensed Chiropractors with Physical Therapy Privileges - Scope of**
4 **Practice - Topical Pharmaceutical Agents**

5 FOR the purpose of authorizing licensed physical therapists ~~and~~, licensed physical
6 therapist assistants, and licensed chiropractors with physical therapy privileges
7 to apply to the skin of a patient certain topical pharmaceutical agents in a
8 certain manner and in accordance with certain standards; including within the
9 practice of physical therapy the procurement of a topical pharmaceutical agent,
10 but excluding that procurement from the practice of limited physical therapy;
11 providing that this Act may not be construed to authorize certain physical
12 therapy licensees to prescribe or to dispense topical pharmaceutical agents;
13 requiring the procurement of a topical pharmaceutical agent to be made from a
14 certain distribution permit holder; specifying certain requirements concerning
15 the use of a topical pharmaceutical agent by certain physical therapy licensees;
16 providing that the State Pharmacy Act does not prohibit certain physical
17 therapy licensees from applying a topical pharmaceutical agent in accordance
18 with certain requirements; authorizing certain distribution permit holders to
19 distribute a prescription drug or device to a licensed physical therapist under
20 certain conditions; requiring the State Board of Physical Therapy Examiners, in
21 consultation and conjunction with the State Board of Pharmacy and the Board
22 of Physician Quality Assurance, to adopt certain regulations and lists; defining
23 a certain term; and generally relating to certain physical therapy licensees and
24 topical pharmaceutical agents.

25 BY repealing and reenacting, without amendments,
26 Article - Health Occupations
27 Section 1-101 (a) and (d)

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1997 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Health Occupations
5 Section 3-307, 12-102, 12-602, and 13-101
6 Annotated Code of Maryland
7 (1994 Replacement Volume and 1997 Supplement)

8 BY adding to
9 Article - Health Occupations
10 Section 13-310.1
11 Annotated Code of Maryland
12 (1994 Replacement Volume and 1997 Supplement)

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

15 **Article - Health Occupations**

16 1-101.

17 (a) In this article the following words have the meanings indicated.

18 (d) "Department" means the Department of Health and Mental Hygiene.

19 3-307.

20 (a) Except as otherwise provided in this section, a license authorizes the
21 licensee to practice chiropractic while the license is effective.

22 (b) [A] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS
23 SECTION, A license that includes the right to practice physical therapy authorizes the
24 licensee to practice chiropractic and physical therapy while the license is effective.

25 (c) A license does not authorize a licensee to execute or file a birth or death
26 certificate.

27 (D) (1) IN THIS SUBSECTION, "TOPICAL PHARMACEUTICAL AGENTS" MEANS
28 THE FOLLOWING PRESCRIPTION DRUGS:

29 (I) ANESTHETIC AGENTS; AND

30 (II) ANTI-INFLAMMATORY AGENTS.

31 (2) A CHIROPRACTOR WITH PHYSICAL THERAPY PRIVILEGES MAY
32 PROCURE AND APPLY TO THE SKIN TOPICAL PHARMACEUTICAL AGENTS TO THE

1 SAME EXTENT AS A PHYSICAL THERAPIST UNDER § 13-310.1 OF THIS ARTICLE IF THE
2 CHIROPRACTOR:

3 (I) COMPLIES WITH THE PROCUREMENT REQUIREMENTS OF TITLE
4 12 OF THIS ARTICLE; AND

5 (II) APPLIES TO THE SKIN TOPICAL PHARMACEUTICAL AGENTS IN
6 ACCORDANCE WITH GENERALLY ACCEPTED PRACTICES AND THE EDUCATIONAL
7 TECHNIQUES IN USE AT SCHOOLS ACCREDITED BY THE COUNCIL ON CHIROPRACTIC
8 EDUCATION.

9 (E) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE A LICENSED
10 CHIROPRACTOR WITH PHYSICAL THERAPY PRIVILEGES TO PRESCRIBE FOR THE USE
11 OF A PATIENT, OR TO DISPENSE TO A PATIENT, A TOPICAL PHARMACEUTICAL AGENT.
12 12-102.

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

14 (2) "In the public interest" means the dispensing of drugs or devices by a
15 licensed dentist, physician, or podiatrist to a patient when a pharmacy is not
16 conveniently available to the patient.

17 (3) "Personally preparing and dispensing" means that the licensed
18 dentist, physician, or podiatrist:

19 (i) Is physically present on the premises where the prescription is
20 filled; and

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

23 (b) This title does not limit the right of an individual to practice a health
24 occupation that the individual is authorized to practice under this article.

25 (c) This title does not prohibit:

26 (1) A licensed veterinarian from personally preparing and dispensing the
27 veterinarian's prescriptions;

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

30 (i) The dentist, physician, or podiatrist:

31 1. Has applied to the board of licensure in this State which
32 licensed the dentist, physician, or podiatrist;

33 2. Has demonstrated to the satisfaction of that board that
34 the dispensing of prescription drugs or devices by the dentist, physician, or podiatrist
35 is in the public interest; and

1 (e) (1) This title does not prohibit a dentist, physician, or podiatrist from
2 administering a prescription drug or device in the course of treating a patient.

3 (2) For the purposes of paragraph (1) of this subsection, "administering"
4 means the direct introduction of a single dosage of a drug or device at a given time,
5 whether by injection or other means, and whether in liquid, tablet, capsule, or other
6 form.

7 (f) (1) This title does not prohibit a dentist, physician, or podiatrist from
8 personally dispensing a starter dosage of a prescription drug or device to a patient of
9 the dentist, physician, or podiatrist, provided that:

10 (i) The starter dosage complies with the labeling requirements of §
11 12-505 of this title;

12 (ii) No charge is made for the starter dosage; and

13 (iii) The dentist, physician, or podiatrist enters an appropriate
14 record on the patient's chart.

15 (2) For the purposes of paragraph (1) of this subsection, "starter dosage"
16 means an amount of drug or device sufficient to begin therapy:

17 (i) Of short duration of 72 hours or less; or

18 (ii) Prior to obtaining a larger quantity of the drug or device to
19 complete the therapy.

20 (g) This title does not prohibit a dentist, physician, or podiatrist from
21 dispensing a prescription drug or device in the course of treating a patient:

22 (1) At a medical facility or clinic that specializes in the treatment of
23 medical cases reimbursable through workers' compensation insurance;

24 (2) At a medical facility or clinic that is operated on a nonprofit basis;

25 (3) At a health center that operates on a campus of an institution of
26 higher education; or

27 (4) At a public health facility, a medical facility under contract with a
28 State or local health department, or a facility funded with public funds.

29 (H) THIS TITLE DOES NOT PROHIBIT A LICENSED PHYSICAL THERAPIST OR A
30 LICENSED PHYSICAL THERAPIST ASSISTANT FROM APPLYING TO THE SKIN A
31 TOPICAL PHARMACEUTICAL AGENT IN THE COURSE OF TREATING A PATIENT IN
32 ACCORDANCE WITH TITLE 13 OF THIS ARTICLE OR A LICENSED CHIROPRACTOR WITH
33 PHYSICAL THERAPY PRIVILEGES FROM APPLYING TO THE SKIN A TOPICAL
34 PHARMACEUTICAL AGENT IN THE COURSE OF TREATING A PATIENT IN ACCORDANCE
35 WITH TITLE 3 OF THIS ARTICLE.

36 [(h)] (I) This title does not limit the right of a general merchant to sell:

- 1 (1) Any nonprescription drug or device;
- 2 (2) Any commonly used household or domestic remedy; or
- 3 (3) Any farm remedy or ingredient for a spraying solution, in bulk or
4 otherwise.

5 [(i)] (J) A dentist, physician, or podiatrist who fails to comply with the
6 provisions of this section governing the dispensing of prescription drugs or devices
7 shall:

- 8 (1) Have the dispensing permit revoked; and
- 9 (2) Be subject to disciplinary actions by the appropriate licensing board.
10 12-602.

11 (a) (1) In this section, the following words have the meanings indicated.

12 (2) "Distribution permit" means a permit issued by the Board under this
13 section to distribute prescription drugs or devices into, out of, or within the State as a
14 distributor, jobber, manufacturer, or wholesaler, wherever located.

15 (3) "Prescription drugs or devices" means any drug or device that,
16 because of its toxicity or other potential for harmful effect, the method of its use, or
17 the collateral measures necessary for its use, is required by federal law to bear a
18 cautionary label warning against dispensing without a prescription or is designated
19 by the Department as not safe for use except under the supervision of a practitioner
20 licensed to administer drugs or devices of this nature.

21 (b) This section does not affect any person while distributing:

- 22 (1) Feed for livestock or poultry;
- 23 (2) Fertilizers;
- 24 (3) Fungicides;
- 25 (4) Insecticide;
- 26 (5) Land plaster;
- 27 (6) Lime;
- 28 (7) Seeds; or
- 29 (8) Devices, drugs, or supplies of any kind for the treatment, care, or cure
30 of farm animals.

1 (c) A person shall hold a distribution permit issued by the Board before the
2 person may distribute prescription drugs or devices as a distributor, jobber,
3 manufacturer, or wholesaler.

4 (d) To qualify for a distribution permit, an applicant shall:

5 (1) Satisfy the Board that the applicant will distribute prescription
6 drugs or devices in compliance with the restrictions specified in subsection (e) of this
7 section; and

8 (2) Comply with any pertinent regulations adopted under subsection (i)
9 of this section.

10 (e) A distribution permit holder may distribute prescription drugs or devices
11 only:

12 (1) To the following persons:

13 (i) An authorized prescriber;

14 (ii) A pharmacy permit holder;

15 (iii) A distribution permit holder; [or]

16 (IV) A LICENSED PHYSICAL THERAPIST UNDER THE CONDITIONS
17 SPECIFIED IN § 13-310.1 OF THIS ARTICLE; ~~OR~~

18 (V) A LICENSED CHIROPRACTOR WITH PHYSICAL THERAPY
19 PRIVILEGES UNDER THE CONDITIONS SET FORTH IN § 3-307 OF THIS ARTICLE; OR

20 [(iv)] ~~(V)~~ (VI) Any other person approved by the Board; and

21 (2) In compliance with any rules and regulations adopted under this
22 section.

23 (f) To apply for a distribution permit, an applicant shall:

24 (1) Submit an application to the Board on the form that the Board
25 provides; and

26 (2) Pay to the Board an application fee set by the Board.

27 (g) The Board shall issue a distribution permit to any applicant who meets the
28 requirements of this section.

29 (h) A distribution permit issued under this section authorizes the distribution
30 permit holder to distribute prescription drugs or devices as a distributor, jobber,
31 manufacturer, or wholesaler while the distribution permit is effective.

1 (i) To protect the public health and safety, the Board may adopt rules and
2 regulations regarding the distribution of prescription drugs or devices including
3 regulations regarding:

4 (1) Qualifications and information required from an applicant seeking
5 issuance or renewal of a distribution permit;

6 (2) Minimum requirements for the receipt, storage, and handling of
7 prescription drugs or devices, security precautions, quality control, recordkeeping,
8 and establishment of written procedures, policy, and responsibilities of personnel;

9 (3) The education and experience of personnel employed in positions
10 responsible for duties referenced in paragraph (2) of this subsection and generally
11 responsible for carrying out those duties that are subject to State licensure
12 requirements under this subtitle; and

13 (4) Disciplinary action to be taken against a permit holder who is
14 convicted of or pleads guilty or nolo contendere to a violation of State, federal, or local
15 drug laws or who violates regulations promulgated by the Board under this section.

16 (j) (1) A distribution permit expires on the December 31 after its effective
17 date, unless the distribution permit is renewed for a 1-year term as provided in this
18 subsection.

19 (2) At least 1 month before a distribution permit expires, the Board shall
20 send to the distribution permit holder, by first-class mail to the last known address of
21 the distribution permit holder, a renewal notice that contains a statement of:

22 (i) The date on which the current distribution permit expires;

23 (ii) The date by which the renewal application must be received by
24 the Board for the renewal to be issued and mailed before the distribution permit
25 expires; and

26 (iii) The amount of the renewal fee.

27 (3) Before a distribution permit expires, a distribution permit holder
28 periodically may renew it for an additional 1-year term, if the distribution permit
29 holder:

30 (i) Otherwise is entitled to a distribution permit;

31 (ii) Pays to the Board a renewal fee set by the Board; and

32 (iii) Submits to the Board a renewal application on the form that the
33 Board requires.

34 (4) The Board shall renew the distribution permit of each distribution
35 permit holder who meets the requirements of this section and any regulation adopted
36 under this section.

1 (k) Each distribution permit shall be displayed conspicuously in the place for
2 which it is issued.

3 (l) A distribution permit is not transferable.

4 (m) Subject to any other restriction provided by law, a person may not
5 purchase or obtain any prescription drugs or devices unless the drug or device is
6 obtained from a distribution permit holder, a licensed pharmacist, or an authorized
7 prescriber.

8 (n) A person may not violate any rule or regulation adopted under this section.

9 (o) A distribution permit is void on conviction of the distribution permit holder
10 for any violation of:

11 (1) This section; or

12 (2) Any rule or regulation adopted by the Board under this section.

13 13-101.

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

15 (b) "Board" means the State Board of Physical Therapy Examiners.

16 (c) "License" means, unless the context requires otherwise, a license issued by
17 the Board to practice:

18 (1) Physical therapy; or

19 (2) Limited physical therapy.

20 (d) "Licensed physical therapist" means, unless the context requires
21 otherwise, a physical therapist who is licensed by the Board to practice physical
22 therapy.

23 (e) "Licensed physical therapist assistant" means, unless the context requires
24 otherwise, a physical therapist assistant who is licensed by the Board to practice
25 limited physical therapy.

26 (f) "Physical therapist" means an individual, licensed by the State Board of
27 Physical Therapy Examiners, who practices physical therapy and who has passed the
28 national physical therapy licensing examination administered or accepted by the
29 Board.

30 (g) "Physical therapist assistant" means an individual who practices limited
31 physical therapy and who has passed the national physical therapy licensing
32 examination administered or accepted by the Board.

33 (h) (1) "Practice limited physical therapy" means to practice the health
34 specialty concerned with:

- 1 (i) The prevention of disability in individuals; and
2 (ii) The physical rehabilitation of individuals with a congenital or
3 acquired disability.

4 (2) "Practice limited physical therapy" includes, except as provided in
5 paragraph (3) of this [subsection,] SUBSECTION:

6 (I) [administering] ADMINISTERING treatment with therapeutic
7 exercise, therapeutic massage, mechanical devices, or therapeutic agents that use the
8 physical, chemical, or other properties of air, water, electricity, sound, or radiant
9 energy; AND

10 (II) APPLYING TO THE SKIN TOPICAL PHARMACEUTICAL AGENTS IN
11 ACCORDANCE WITH § 13-310.1 OF THIS TITLE.

12 (3) "Practice limited physical therapy" does not include:

13 (i) Performing and interpreting tests and measurements of
14 neuromuscular and musculoskeletal functions to aid treatment;

15 (ii) Planning treatment programs that are based on test findings;
16 [or]

17 (III) THE PROCUREMENT OF A TOPICAL PHARMACEUTICAL AGENT;
18 OR

19 [(iii)] (IV) Using:

- 20 1. X rays;
21 2. Radioactive substances; or
22 3. Electricity for cauterization or surgery.

23 (i) (1) "Practice physical therapy" means to practice the health specialty
24 concerned with:

25 (i) The prevention of disability in individuals; and

26 (ii) The physical rehabilitation of individuals with a congenital or
27 acquired disability.

28 (2) "Practice physical therapy" includes:

29 (i) Performing an evaluation of the physical therapy needs of
30 individuals;

31 (ii) Performing and interpreting tests and measurements of
32 neuromuscular and musculoskeletal functions to aid treatment;

1 (iii) Planning treatment programs that are based on test findings;

2 [and]

3 (iv) Except as provided in paragraph (3) of this subsection,
4 administering treatment with therapeutic exercise, therapeutic massage, mechanical
5 devices, or therapeutic agents that use the physical, chemical, or other properties of
6 air, water, electricity, sound, or radiant energy; AND

7 (V) PROCURING AND APPLYING TO THE SKIN A TOPICAL
8 PHARMACEUTICAL AGENT IN ACCORDANCE WITH § 13-310.1 OF THIS TITLE.

9 (3) "Practice physical therapy" does not include using:

10 (i) X rays;

11 (ii) Radioactive substances; or

12 (iii) Electricity for cauterization or surgery.

13 (j) "Restricted license" means a license issued by the Board under and as
14 limited by § 13-314 of this title to practice physical therapy.

15 (k) "Temporary license" means a license issued by the Board under and as
16 limited by § 13-313 of this title to practice:

17 (1) Physical therapy; or

18 (2) Limited physical therapy.

19 13-310.1.

20 (A) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE A LICENSED
21 PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT TO PRESCRIBE FOR THE
22 USE OF A PATIENT, OR TO DISPENSE TO A PATIENT, A TOPICAL PHARMACEUTICAL
23 AGENT.

24 (B) IN THIS SECTION, "TOPICAL PHARMACEUTICAL AGENT" MEANS THE
25 FOLLOWING PRESCRIPTION DRUGS:

26 (1) AN ANTIBACTERIAL AGENT;

27 (2) A DEBRIDING AGENT;

28 (3) AN ANESTHETIC AGENT; AND

29 (4) AN ANTI-INFLAMMATORY AGENT.

30 (C) (1) A LICENSED PHYSICAL THERAPIST OR LICENSED PHYSICAL
31 THERAPIST ASSISTANT MAY APPLY TO THE SKIN A TOPICAL PHARMACEUTICAL
32 AGENT ONLY BY:

1 (I) DIRECT APPLICATION;

2 (II) IONTOPHORESIS; OR

3 (III) PHONOPHORESIS.

4 (2) A LICENSED PHYSICAL THERAPIST OR LICENSED PHYSICAL
5 THERAPIST ASSISTANT SHALL APPLY TO THE SKIN A TOPICAL PHARMACEUTICAL
6 AGENT IN ACCORDANCE WITH GENERALLY ACCEPTED PRACTICES AND THE
7 EDUCATIONAL TECHNIQUES IN USE AT SCHOOLS ACCREDITED BY THE COMMISSION
8 ON ACCREDITATION IN PHYSICAL THERAPY EDUCATION.

9 (D) A TOPICAL PHARMACEUTICAL AGENT PROCURED UNDER THIS SECTION
10 SHALL BE OBTAINED FROM A PERSON THAT HOLDS A DISTRIBUTION PERMIT ISSUED
11 UNDER § 12-602 OF THIS ARTICLE.

12 (E) TO USE A TOPICAL PHARMACEUTICAL AGENT UNDER THIS SECTION, A
13 LICENSED PHYSICAL THERAPIST OR A LICENSED PHYSICAL THERAPIST ASSISTANT
14 SHALL ENSURE THAT THE ORIGINAL LABEL OF THE MANUFACTURER:

15 (1) IS AFFIXED TO THE TOPICAL PHARMACEUTICAL AGENT; AND

16 (2) INCLUDES:

17 (I) THE NAME OF THE MANUFACTURER;

18 (II) THE NAME AND STRENGTH OF THE TOPICAL PHARMACEUTICAL
19 AGENT;

20 (III) THE LOT NUMBER; AND

21 (IV) THE EXPIRATION DATE OF THE TOPICAL PHARMACEUTICAL
22 AGENT.

23 (F) A LICENSED PHYSICAL THERAPIST OR A LICENSED PHYSICAL THERAPIST
24 ASSISTANT:

25 (1) SHALL HAVE APPROPRIATE DOCUMENTATION IN THE PATIENT'S
26 MEDICAL RECORD CONCERNING THE APPLICATION OF A TOPICAL PHARMACEUTICAL
27 AGENT; AND

28 (2) SHALL ALLOW THE OFFICE OF DRUG CONTROL OF THE
29 DEPARTMENT TO ENTER AND INSPECT THE OFFICE OF THE LICENSED PHYSICAL
30 THERAPIST OR THE LICENSED PHYSICAL THERAPIST ASSISTANT AT ALL
31 REASONABLE HOURS.

32 (G) A LICENSED PHYSICAL THERAPIST OR A LICENSED PHYSICAL THERAPIST
33 ASSISTANT MAY APPLY TOPICAL PHARMACEUTICAL AGENTS:

34 (1) WHEN TREATING A PATIENT REFERRED BY A PHYSICIAN IF THE
35 APPLICATION IS CONSISTENT WITH THE REFERRAL; AND

1 (2) WHEN TREATING A PATIENT WHO WAS NOT REFERRED BY A
2 PHYSICIAN IF THE APPLICATION IS CONSISTENT WITH THE EVALUATION OF THE
3 PATIENT'S TREATMENT NEEDS.

4 (H) IN CONJUNCTION WITH THE STATE BOARD OF PHARMACY AND THE
5 BOARD OF PHYSICIAN QUALITY ASSURANCE, THE BOARD SHALL DEVELOP A LIST OF
6 TOPICAL PHARMACEUTICAL AGENTS THAT A LICENSED PHYSICAL THERAPIST, A
7 LICENSED PHYSICAL THERAPIST ASSISTANT, OR A LICENSED CHIROPRACTOR WITH
8 PHYSICAL THERAPY PRIVILEGES MAY PROCURE.

9 (~~G~~) (I) IN CONSULTATION WITH THE STATE BOARD OF PHARMACY AND THE
10 BOARD OF PHYSICIAN QUALITY ASSURANCE, THE BOARD SHALL ADOPT
11 REGULATIONS CONCERNING THE STORAGE AND USE OF TOPICAL PHARMACEUTICAL
12 AGENTS PROCURED UNDER THIS SECTION.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1998.