

SENATE BILL 247  
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SB 354/03 - EHE

2004 Regular Session  
4r0830  
CF 4r1716

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By: **Senators Grosfeld, Britt, Conway, Exum, Forehand, Frosh, Garagiola,  
Gladden, Hollinger, Jones, Kelley, Kramer, Lawlah, McFadden, Pinsky,  
Ruben, and Teitelbaum**

Introduced and read first time: January 29, 2004

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Public Health - Licensed Pharmacists - Dispensing Emergency**  
3 **Contraception**

4 FOR the purpose of authorizing a licensed pharmacist to dispense emergency  
5 contraception if the pharmacist has a certain arrangement with a certain  
6 physician under certain circumstances; authorizing a certain pharmacist to  
7 initiate a certain arrangement; providing for the duration of a certain  
8 arrangement under certain circumstances; requiring the Board of Pharmacy  
9 and the State Board of Physicians to jointly develop and adopt certain  
10 regulations; providing that this Act does not affect, and may not be construed as  
11 affecting, the requirements of existing law relating to maintaining the  
12 confidentiality of medical records; prohibiting a cause of action to arise against  
13 certain licensed pharmacists or certain licensed physicians except under certain  
14 circumstances; providing that this Act does not affect, and may not be construed  
15 as affecting, certain immunities or defenses to which licensed pharmacists or  
16 licensed physicians may be entitled; providing that this Act may not be  
17 construed to create a certain duty and that licensed pharmacists or licensed  
18 physicians may not be held liable for certain reasons; providing for the  
19 construction and application of this Act; defining certain terms; and generally  
20 relating to the dispensing of emergency contraception by a licensed pharmacist.

21 BY adding to  
22 Article - Health Occupations  
23 Section 12-605  
24 Annotated Code of Maryland  
25 (2000 Replacement Volume and 2003 Supplement)

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

**Article - Health Occupations**

1

2 12-605.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "ARRANGEMENT" MEANS A COLLABORATIVE PRACTICE  
6 ARRANGEMENT BETWEEN A LICENSED PHARMACIST AND A LICENSED PHYSICIAN  
7 THAT AUTHORIZES THE LICENSED PHARMACIST TO DISPENSE EMERGENCY  
8 CONTRACEPTION TO EITHER:

9 (I) PATIENTS OF THE LICENSED PHYSICIAN; OR

10 (II) INDIVIDUALS WHO ARE NOT PATIENTS OF THE LICENSED  
11 PHYSICIAN.

12 (3) (I) "EMERGENCY CONTRACEPTION" MEANS A METHOD OF  
13 PREVENTING PREGNANCY.

14 (II) "EMERGENCY CONTRACEPTION" DOES NOT INCLUDE  
15 ABORTIFACIENTS.

16 (4) "LICENSED PHYSICIAN" MEANS AN INDIVIDUAL WHO IS LICENSED TO  
17 PRACTICE MEDICINE UNDER TITLE 14 OF THIS ARTICLE.

18 (B) IF A LICENSED PHARMACIST HAS AN ARRANGEMENT THAT HAS BEEN  
19 APPROVED BY THE BOARD AND THE STATE BOARD OF PHYSICIANS, THE PHARMACIST  
20 MAY DISPENSE EMERGENCY CONTRACEPTION.

21 (C) AN ARRANGEMENT:

22 (1) MAY BE INITIATED BY EITHER A LICENSED PHARMACIST OR A  
23 LICENSED PHYSICIAN; AND

24 (2) SHALL BE VALID FOR 2 YEARS FROM THE DATE OF ITS FINAL  
25 APPROVAL BY THE BOARD AND THE STATE BOARD OF PHYSICIANS UNLESS  
26 RENEWED IN ACCORDANCE WITH ESTABLISHED REGULATIONS ADOPTED UNDER  
27 SUBSECTION (E) OF THIS SECTION.

28 (D) THIS SECTION DOES NOT SUPERSEDE THE PROVISIONS OF § 5-902 OF THE  
29 CRIMINAL LAW ARTICLE.

30 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD AND  
31 THE STATE BOARD OF PHYSICIANS SHALL JOINTLY DEVELOP AND ADOPT  
32 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

33 (2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS  
34 SUBSECTION SHALL INCLUDE PROVISIONS THAT:

1 (I) DEFINE THE CRITERIA FOR THE ESTABLISHMENT OF AN  
2 ARRANGEMENT;

3 (II) ESTABLISH GUIDELINES CONCERNING AN ARRANGEMENT  
4 INCLUDING COMMUNICATION, DOCUMENTATION, AND OTHER RELEVANT FACTORS;  
5 AND

6 (III) ESTABLISH A PROCEDURE TO ALLOW FOR THE APPROVAL,  
7 MODIFICATION, CONTINUATION, OR DISAPPROVAL OF AN ARRANGEMENT BY THE  
8 BOARD AND THE STATE BOARD OF PHYSICIANS.

9 (F) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSED  
10 PHARMACIST WHO ENTERS INTO AN ARRANGEMENT UNDER THIS SECTION FOR ANY  
11 ACT OR OMISSION WHEN THE LICENSED PHARMACIST IS ACTING IN GOOD FAITH  
12 WHILE DISPENSING EMERGENCY CONTRACEPTION, EXCEPT WHERE THE CONDUCT  
13 OF THE LICENSED PHARMACIST AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR  
14 WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.

15 (2) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSED  
16 PHYSICIAN WHO ENTERS INTO AN ARRANGEMENT UNDER THIS SECTION FOR ANY  
17 ACT OR OMISSION WHEN THE LICENSED PHYSICIAN IS ACTING IN GOOD FAITH,  
18 EXCEPT WHERE THE CONDUCT OF THE LICENSED PHYSICIAN AMOUNTS TO GROSS  
19 NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS  
20 CONDUCT.

21 (3) THIS SUBSECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED  
22 AS AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES  
23 ESTABLISHED BY ANY OTHER PROVISIONS OF THE CODE OR BY COMMON LAW TO  
24 WHICH A LICENSED PHARMACIST OR LICENSED PHYSICIAN MAY BE ENTITLED.

25 (G) (1) THIS SECTION MAY NOT BE CONSTRUED TO CREATE A DUTY FOR ANY  
26 LICENSED PHARMACIST TO ENTER INTO AN ARRANGEMENT UNDER THIS SECTION,  
27 AND A LICENSED PHARMACIST MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO  
28 ENTER INTO AN ARRANGEMENT UNDER THIS SECTION.

29 (2) THIS SECTION MAY NOT BE CONSTRUED TO CREATE A DUTY FOR ANY  
30 LICENSED PHYSICIAN TO ENTER INTO AN ARRANGEMENT UNDER THIS SECTION,  
31 AND A LICENSED PHYSICIAN MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO  
32 ENTER INTO AN ARRANGEMENT UNDER THIS SECTION.

33 (3) A LICENSED PHARMACIST MAY NOT BE HELD CIVILLY LIABLE IN ANY  
34 ACTION ARISING FROM OR IN CONNECTION WITH THE DISPENSING OF EMERGENCY  
35 CONTRACEPTION BY THE LICENSED PHARMACIST SOLELY BECAUSE THE LICENSED  
36 PHARMACIST DID NOT ENTER INTO AN ARRANGEMENT UNDER THIS SECTION.

37 SECTION 2. AND BE IT FURTHER ENACTED, That the regulations required  
38 by this Act shall be adopted within 6 months of the effective date of this Act.

39 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
40 October 1, 2004.

