
By: **Delegates Rudolph, Benson, Bozman, Elliott, Kullen, Morhaim, Murray,
Oaks, Sophocleus, and Weldon**

Introduced and read first time: January 30, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Pharmacy - Registration of Pharmacy Technicians**

3 FOR the purpose of authorizing the State Board of Pharmacy to regulate pharmacy
4 technicians; authorizing a licensed pharmacist to delegate certain pharmacy
5 acts to certain individuals under certain circumstances; altering the grounds for
6 disciplinary action; altering certain labeling requirements; establishing that
7 certain pharmacy students may participate in certain programs without a
8 license; authorizing the Board to establish certain fees; establishing
9 qualifications, waiver requirements, application requirements, continuing
10 education requirements, terms of registration, renewal procedures, causes for
11 disciplinary action, certain reporting requirements, certain representation
12 requirements, and certain penalties for registered pharmacy technicians;
13 altering certain definitions; defining certain terms; requiring the Board to
14 review certain fees and expenditures and report to certain committees of the
15 General Assembly by a certain date; providing for the effective date of certain
16 provisions of this Act; providing for the termination of certain provisions of this
17 Act; and generally relating to the registration and regulation of pharmacy
18 technicians by the State Board of Pharmacy.

19 BY repealing and reenacting, with amendments,
20 Article - Health Occupations
21 Section 12-101
22 Annotated Code of Maryland
23 (2005 Replacement Volume)

24 BY repealing and reenacting, with amendments,
25 Article - Health Occupations
26 Section 12-101
27 Annotated Code of Maryland
28 (2005 Replacement Volume)
29 (As enacted by Chapter 249 of the Acts of the General Assembly of 2002)

30 BY repealing and reenacting, with amendments,

1 Article - Health Occupations
2 Section 12-205, 12-206, 12-301(b), 12-307, 12-313, 12-315(a), 12-316, 12-317,
3 12-319, 12-320, 12-403, 12-505, and 12-707
4 Annotated Code of Maryland
5 (2005 Replacement Volume)

6 BY adding to
7 Article - Health Occupations
8 Section 12-6B-01 through 12-6B-14, inclusive, to be under the new subtitle
9 "Subtitle 6B. Registered Pharmacy Technicians"
10 Annotated Code of Maryland
11 (2005 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article - Health Occupations
14 Section 12-6B-06
15 Annotated Code of Maryland
16 (2005 Replacement Volume)
17 (As enacted by Section 3 of this Act)

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

20 **Article - Health Occupations**

21 12-101.

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

23 (b) "Authorized prescriber" means any licensed dentist, licensed physician,
24 licensed podiatrist, licensed veterinarian, certified nurse midwife to the extent
25 permitted in § 8-601 of this article, certified nurse practitioner to the extent
26 permitted in § 8-508 of this article, or other individual authorized by law to prescribe
27 prescription or nonprescription drugs or devices.

28 (c) "Board" means the State Board of Pharmacy.

29 (d) (1) "Compounding" means the preparation, mixing, assembling,
30 packaging, or labeling of a drug or device:

31 (i) As the result of a practitioner's prescription drug order or
32 initiative based on the practitioner/patient/pharmacist relationship in the course of
33 professional practice; or

34 (ii) For the purpose of, or incident to, research, teaching, or
35 chemical analysis and not for the sale or dispensing of the drug or device.

1 (2) "Compounding" includes the preparation of drugs or devices in
2 anticipation of a prescription drug order based on routine, regularly observed
3 prescribing patterns.

4 (E) (1) "DELEGATED PHARMACY ACT" MEANS AN ACTIVITY THAT
5 CONSTITUTES THE PRACTICE OF PHARMACY DELEGATED BY A LICENSED
6 PHARMACIST UNDER THIS TITLE AND REGULATIONS ADOPTED BY THE BOARD.

7 (2) "DELEGATED PHARMACY ACT" DOES NOT INCLUDE:

8 (I) AN ACT WITHIN THE PARAMETERS OF A THERAPY
9 MANAGEMENT CONTRACT AS PROVIDED UNDER SUBTITLE 6A OF THIS TITLE;

10 (II) THE ADMINISTRATION OF AN INFLUENZA VACCINATION IN
11 ACCORDANCE WITH § 12-508 OF THIS TITLE;

12 (III) THE DELEGATION OF A PHARMACY ACT BY A REGISTERED
13 PHARMACY TECHNICIAN, PHARMACY STUDENT, OR PHARMACY TECHNICIAN
14 TRAINEE;

15 (IV) A PHARMACY ACTIVITY OF A PHARMACY STUDENT IN
16 ACCORDANCE WITH § 12-301(B) OF THIS TITLE; OR

17 (V) THE PERFORMANCE OF OTHER FUNCTIONS PROHIBITED IN
18 REGULATIONS ADOPTED BY THE BOARD.

19 [(e)] (F) (1) "Device" means a device used in the diagnosis, treatment, or
20 prevention of disease.

21 (2) "Device" does not include any:

22 (i) Surgical or dental instrument;

23 (ii) Physical therapy equipment;

24 (iii) X-ray apparatus; or

25 (iv) Component part or accessory of any of these items.

26 (G) "DIRECT SUPERVISION" MEANS THAT A LICENSED PHARMACIST IS
27 PHYSICALLY AVAILABLE ON-SITE TO SUPERVISE THE PERFORMANCE OF
28 DELEGATED PHARMACY ACTS.

29 [(f)] (H) "Dispense" or "dispensing" means the procedure which results in the
30 receipt of a prescription or nonprescription drug or device by a patient or the patient's
31 agent and which entails the:

32 (1) Interpretation of an authorized prescriber's prescription for a drug or
33 device;

1 (2) Selection and labeling of the drug or device prescribed pursuant to
2 that prescription; and

3 (3) Measuring and packaging of the prescribed drug or device in
4 accordance with State and federal laws.

5 [(g)] (I) (1) "Distribute" means the process resulting in the provision of a
6 prescription or nonprescription drug or device to a separate, intervening individual,
7 licensed and practicing under this article, prior to administration of the provided drug
8 or device to the patient pursuant to a prescription issued by an authorized prescriber.

9 (2) "Distribute" does not include the operations of a person who holds a
10 permit issued under § 12-602 of this title.

11 [(h)] (J) "License" means, unless the context requires otherwise, a license
12 issued TO A PHARMACIST by the Board to practice pharmacy.

13 [(i)] (K) "Licensed pharmacist" means, unless the context requires otherwise,
14 a pharmacist who is licensed by the Board to practice pharmacy.

15 [(j)] (L) "Nonprescription drug" means a drug which may be sold without a
16 prescription and which is labeled for use by the consumer in accordance with the
17 requirements of the laws and regulations of this State and the federal government.

18 [(k)] (M) "Nonresident pharmacy" means a pharmacy located outside this
19 State that, in the normal course of business, as determined by the Board, ships, mails,
20 or delivers drugs or devices to a person in this State pursuant to a prescription.

21 [(l)] (N) "Pharmaceutical care" means the provision of a patient's drug
22 regimen for the purpose of achieving definite outcomes related to the cure or
23 prevention of a disease, elimination or reduction of a patient's symptoms, or arresting
24 or slowing of a disease process by identifying, resolving, or preventing actual or
25 potential drug therapy problems and which may include patient counseling and
26 providing information to licensed and certified health care providers.

27 [(m)] (O) "Pharmacist" means an individual who practices pharmacy
28 regardless of the location where the activities of practice are performed.

29 [(n)] (P) "Pharmacy" means an establishment in which prescription or
30 nonprescription drugs or devices are compounded, dispensed, or distributed.

31 [(o)] (Q) "Pharmacy permit" means a permit issued by the Board to establish
32 and operate a pharmacy.

33 (R) "PHARMACY STUDENT" MEANS AN INDIVIDUAL WHO IS ENROLLED AS A
34 STUDENT IN A SCHOOL OR COLLEGE OF PHARMACY APPROVED BY THE BOARD OR
35 ACCREDITED BY THE ACCREDITATION COUNCIL FOR PHARMACY EDUCATION.

36 [(p)] (S) (1) "Practice pharmacy" means to engage in any of the following
37 activities:

- 1 (i) Providing pharmaceutical care;
- 2 (ii) Compounding, dispensing, or distributing prescription drugs or
3 devices;
- 4 (iii) Compounding or dispensing nonprescription drugs or devices;
- 5 (iv) Monitoring prescriptions for prescription and nonprescription
6 drugs or devices;
- 7 (v) Providing information, explanation, or recommendations to
8 patients and health care practitioners about the safe and effective use of prescription
9 or nonprescription drugs or devices;
- 10 (vi) Identifying and appraising problems concerning the use or
11 monitoring of therapy with drugs or devices;
- 12 (vii) Acting within the parameters of a therapy management
13 contract, as provided under Subtitle 6A of this title; [or]
- 14 (viii) Administering an influenza vaccination in accordance with §
15 12-508 of this title;
- 16 (IX) DELEGATING A PHARMACY ACT TO A REGISTERED PHARMACY
17 TECHNICIAN, PHARMACY STUDENT, OR AN INDIVIDUAL ENGAGED IN A BOARD
18 APPROVED PHARMACY TECHNICIAN TRAINING PROGRAM; OR
- 19 (X) SUPERVISING A DELEGATED PHARMACY ACT PERFORMED BY A
20 REGISTERED PHARMACY TECHNICIAN, PHARMACY STUDENT, OR AN INDIVIDUAL
21 ENGAGED IN A BOARD APPROVED PHARMACY TECHNICIAN TRAINING PROGRAM.
- 22 (2) "Practice pharmacy" does not include the operations of a person who
23 holds a permit issued under § 12-602 of this title.
- 24 (T) "PHARMACY TECHNICIAN TRAINEE" MEANS AN INDIVIDUAL ENGAGED IN
25 A BOARD APPROVED PHARMACY TECHNICIAN TRAINING PROGRAM.
- 26 (U) "REGISTERED PHARMACY TECHNICIAN" MEANS AN INDIVIDUAL WHO IS
27 REGISTERED WITH THE BOARD TO PERFORM DELEGATED PHARMACY ACTS.
- 28 (V) "REGISTRATION" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A
29 REGISTRATION ISSUED BY THE BOARD TO PERFORM DELEGATED PHARMACY ACTS
30 UNDER THE SUPERVISION OF A LICENSED PHARMACIST.
- 31 (W) "SUPERVISION" MEANS REVIEWING THE WORK, GUIDING AND DIRECTING
32 THE ACTIVITIES, AND MONITORING THE PERFORMANCE OF AN INDIVIDUAL.

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

Article - Health Occupations

12-101.

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

(b) "Authorized prescriber" means any licensed dentist, licensed physician, licensed podiatrist, licensed veterinarian, certified nurse midwife to the extent permitted in § 8-601 of this article, certified nurse practitioner to the extent permitted in § 8-508 of this article, or other individual authorized by law to prescribe prescription or nonprescription drugs or devices.

(c) "Board" means the State Board of Pharmacy.

(d) (1) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

(i) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice; or

(ii) For the purpose of, or incident to, research, teaching, or chemical analysis and not for the sale or dispensing of the drug or device.

(2) "Compounding" includes the preparation of drugs or devices in anticipation of a prescription drug order based on routine, regularly observed prescribing patterns.

(E) (1) "DELEGATED PHARMACY ACT" MEANS ACTIVITY THAT CONSTITUTES THE PRACTICE OF PHARMACY DELEGATED BY A LICENSED PHARMACIST UNDER THIS TITLE AND REGULATIONS ADOPTED BY THE BOARD.

(2) "DELEGATED PHARMACY ACT" DOES NOT INCLUDE:

(I) AN ACT WITHIN THE PARAMETERS OF A THERAPY MANAGEMENT CONTRACT AS PROVIDED UNDER SUBTITLE 6A OF THIS TITLE;

(II) THE ADMINISTRATION OF AN INFLUENZA VACCINATION IN ACCORDANCE WITH § 12-508 OF THIS TITLE;

(III) THE DELEGATION OF A PHARMACY ACT BY A REGISTERED PHARMACY TECHNICIAN, PHARMACY STUDENT, OR PHARMACY TECHNICIAN TRAINEE;

(IV) A PHARMACY ACTIVITY OF A PHARMACY STUDENT IN ACCORDANCE WITH § 12-301(B) OF THIS TITLE; OR

(V) THE PERFORMANCE OF OTHER FUNCTIONS PROHIBITED IN REGULATIONS ADOPTED BY THE BOARD.

1 [(e)] (F) (1) "Device" means a device used in the diagnosis, treatment, or
2 prevention of disease.

3 (2) "Device" does not include any:

4 (i) Surgical or dental instrument;

5 (ii) Physical therapy equipment;

6 (iii) X-ray apparatus; or

7 (iv) Component part or accessory of any of these items.

8 (G) "DIRECT SUPERVISION" MEANS THAT A LICENSED PHARMACIST IS
9 PHYSICALLY AVAILABLE ON-SITE TO SUPERVISE THE PERFORMANCE OF
10 DELEGATED PHARMACY ACTS.

11 [(f)] (H) "Dispense" or "dispensing" means the procedure which results in the
12 receipt of a prescription or nonprescription drug or device by a patient or the patient's
13 agent and which entails the:

14 (1) Interpretation of an authorized prescriber's prescription for a drug or
15 device;

16 (2) Selection and labeling of the drug or device prescribed pursuant to
17 that prescription; and

18 (3) Measuring and packaging of the prescribed drug or device in
19 accordance with State and federal laws.

20 [(g)] (I) (1) "Distribute" means the process resulting in the provision of a
21 prescription or nonprescription drug or device to a separate, intervening individual,
22 licensed and practicing under this article, prior to administration of the provided drug
23 or device to the patient pursuant to a prescription issued by an authorized prescriber.

24 (2) "Distribute" does not include the operations of a person who holds a
25 permit issued under § 12-602 of this title.

26 [(h)] (J) "License" means, unless the context requires otherwise, a license
27 issued TO A PHARMACIST by the Board to practice pharmacy.

28 [(i)] (K) "Licensed pharmacist" means, unless the context requires otherwise,
29 a pharmacist who is licensed by the Board to practice pharmacy.

30 [(j)] (L) "Nonprescription drug" means a drug which may be sold without a
31 prescription and which is labeled for use by the consumer in accordance with the
32 requirements of the laws and regulations of this State and the federal government.

33 [(k)] (M) "Nonresident pharmacy" means a pharmacy located outside this
34 State that, in the normal course of business, as determined by the Board, ships, mails,
35 or delivers drugs or devices to a person in this State pursuant to a prescription.

1 [(l)] (N) "Pharmaceutical care" means the provision of a patient's drug
2 regimen for the purpose of achieving definite outcomes related to the cure or
3 prevention of a disease, elimination or reduction of a patient's symptoms, or arresting
4 or slowing of a disease process by identifying, resolving, or preventing actual or
5 potential drug therapy problems and which may include patient counseling and
6 providing information to licensed and certified health care providers.

7 [(m)] (O) "Pharmacist" means an individual who practices pharmacy
8 regardless of the location where the activities of practice are performed.

9 [(n)] (P) "Pharmacy" means an establishment in which prescription or
10 nonprescription drugs or devices are compounded, dispensed, or distributed.

11 [(o)] (Q) "Pharmacy permit" means a permit issued by the Board to establish
12 and operate a pharmacy.

13 (R) "PHARMACY STUDENT" MEANS AN INDIVIDUAL WHO IS ENROLLED AS A
14 STUDENT IN A SCHOOL OR COLLEGE OF PHARMACY APPROVED BY THE BOARD OR
15 ACCREDITED BY THE ACCREDITATION COUNCIL FOR PHARMACY EDUCATION.

16 [(p)] (S) (1) "Practice pharmacy" means to engage in any of the following
17 activities:

18 (i) Providing pharmaceutical care;

19 (ii) Compounding, dispensing, or distributing prescription drugs or
20 devices;

21 (iii) Compounding or dispensing nonprescription drugs or devices;

22 (iv) Monitoring prescriptions for prescription and nonprescription
23 drugs or devices;

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

27 (vi) Identifying and appraising problems concerning the use or
28 monitoring of therapy with drugs or devices; [or]

29 (vii) Administering an influenza vaccination in accordance with §
30 12-508 of this title;

31 (VIII) DELEGATING A PHARMACY ACT TO A REGISTERED PHARMACY
32 TECHNICIAN, PHARMACY STUDENT, OR AN INDIVIDUAL ENGAGED IN A BOARD
33 APPROVED PHARMACY TECHNICIAN TRAINING PROGRAM; OR

34 (IX) SUPERVISING A DELEGATED PHARMACY ACT PERFORMED BY A
35 REGISTERED PHARMACY TECHNICIAN, PHARMACY STUDENT, OR AN INDIVIDUAL
36 ENGAGED IN A BOARD APPROVED PHARMACY TECHNICIAN TRAINING PROGRAM.

1 (2) "Practice pharmacy" does not include the operations of a person who
2 holds a permit issued under § 12-602 of this title.

3 (T) "PHARMACY TECHNICIAN TRAINEE" MEANS AN INDIVIDUAL ENGAGED IN
4 A BOARD APPROVED PHARMACY TECHNICIAN TRAINING PROGRAM.

5 (U) "REGISTERED PHARMACY TECHNICIAN" MEANS AN INDIVIDUAL WHO IS
6 REGISTERED WITH THE BOARD TO PERFORM DELEGATED PHARMACY ACTS.

7 (V) "REGISTRATION" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A
8 REGISTRATION ISSUED BY THE BOARD TO PERFORM DELEGATED PHARMACY ACTS
9 UNDER THE SUPERVISION OF A LICENSED PHARMACIST.

10 (W) "SUPERVISION" MEANS REVIEWING THE WORK, GUIDING AND DIRECTING
11 THE ACTIVITIES, AND MONITORING THE PERFORMANCE OF AN INDIVIDUAL.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article - Health Occupations**

15 12-205.

16 (a) In addition to the powers set forth elsewhere in this title, the Board may
17 adopt:

18 (1) Rules and bylaws that are necessary to do its business;

19 (2) Rules and regulations to carry out the provisions of this title;

20 (3) Rules and regulations that are necessary to protect the public health,
21 safety, and welfare and that establish standards for practicing pharmacy and
22 operating pharmacies, including rules and regulations that govern:

23 (i) Methods of advertising and promotion; and

24 (ii) Standards for filling and refilling prescriptions; and

25 (4) A code of conduct that specifies which behaviors are either required
26 or prohibited in the practice of pharmacy.

27 (b) In addition to the duties set forth elsewhere in this title, the Board shall:

28 (1) Keep a record that includes:

29 (i) The name and place of the business or the home address of each
30 licensed pharmacist AND EACH REGISTERED PHARMACY TECHNICIAN; [and]

31 (ii) The facts concerning the issuance of that pharmacist's license;
32 and

1 (III) THE FACTS CONCERNING THE ISSUANCE OF THAT PHARMACY
2 TECHNICIAN'S REGISTRATION;

3 (2) Prepare and deliver to the Governor, the Secretary, and the Maryland
4 Pharmacists Association an annual report that:

5 (i) Summarizes the condition of pharmacy in this State; and

6 (ii) Includes a record of the proceedings of the Board; and

7 (3) Disclose any information contained in a record to any health
8 occupations regulatory board or agency of this State or another state if the health
9 occupations regulatory board or agency of this State or another state requests the
10 information in writing.

11 (c) In addition to the duties set forth elsewhere in this title, the Board may
12 initiate such programs and projects as deemed necessary to inform or protect the
13 public.

14 12-206.

15 (a) There is a State Board of Pharmacy Fund.

16 (b) (1) The Board may set reasonable fees for the issuance and renewal of
17 licenses AND REGISTRATIONS and its other services.

18 (2) The fees charged shall be set so as to produce funds to approximate
19 the cost of maintaining the Board.

20 (3) Funds to cover the compensation and expenses of the Board members
21 shall be generated by fees set under this section.

22 (c) (1) The Board shall pay all funds collected under this title to the
23 Comptroller of the State.

24 (2) The Comptroller shall distribute the fees to the State Board of
25 Pharmacy Fund.

26 (d) (1) The Fund shall be used to cover the actual documented direct and
27 indirect costs of fulfilling the statutory and regulatory duties of the Board as provided
28 by the provisions of this article.

29 (2) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of
30 the State Finance and Procurement Article.

31 (3) Any unspent portions of the Fund may not be transferred or revert to
32 the General Fund of the State, but shall remain in the Fund to be used for the
33 purposes specified in this article.

34 (4) No other State money may be used to support the Fund.

1 (e) (1) A designee of the Board shall administer the Fund.

2 (2) Moneys in the Fund may be expended only for any lawful purpose
3 authorized under the provisions of this article.

4 (f) The Board may allocate moneys from the Fund to a pharmacist
5 rehabilitation committee described in § 12-317 of this title.

6 (g) The Legislative Auditor shall audit the accounts and transactions of the
7 Fund as provided in § 2-1220 of the State Government Article.

8 12-301.

9 (b) This section does not apply to [an individual while engaging in a
10 professional experience program under the direct supervision of a licensed
11 pharmacist] A PHARMACY STUDENT PARTICIPATING IN AN EXPERIENTIAL
12 LEARNING PROGRAM OF A COLLEGE OR SCHOOL OF PHARMACY UNDER THE
13 SUPERVISION OF A LICENSED PHARMACIST.

14 12-307.

15 (a) A license authorizes the licensee to practice pharmacy while the license is
16 effective.

17 (b) Except as otherwise provided in this section, a pharmacist may engage in
18 dispensing or distributing only from a pharmacy holding a pharmacy permit issued
19 by the Board.

20 (c) Pursuant to regulations adopted by the Board, a licensed pharmacist may
21 engage in dispensing or distributing from a setting not holding a pharmacy permit
22 only upon receiving the prior approval of the Board.

23 (D) A LICENSED PHARMACIST MAY DELEGATE PHARMACY ACTS TO A
24 REGISTERED PHARMACY TECHNICIAN, PHARMACY STUDENT, OR PHARMACY
25 TECHNICIAN TRAINEE PROVIDED THAT THE DELEGATED PHARMACY ACTS:

26 (1) ARE DIRECTLY SUPERVISED BY A LICENSED PHARMACIST;

27 (2) ARE NOT REQUIRED TO BE PERFORMED BY A LICENSED
28 PHARMACIST;

29 (3) ARE WITHIN THE EDUCATION, TRAINING, EXPERIENCE, AND AREA
30 OF PRACTICE OF THE DELEGATING LICENSED PHARMACIST; AND

31 (4) ARE APPROPRIATE TO THE EDUCATION, TRAINING, AND
32 EXPERIENCE OF THE REGISTERED PHARMACY TECHNICIAN, PHARMACY STUDENT,
33 OR PHARMACY TECHNICIAN TRAINEE.

1 12-313.

2 (a) In this section, "convicted" includes a determination of guilt, a guilty plea,
3 or a plea of nolo contendere followed by a sentence.

4 (b) Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on
5 the affirmative vote of a majority of its members then serving, may deny a license to
6 any applicant FOR A PHARMACIST'S LICENSE, reprimand any licensee, place any
7 licensee on probation, or suspend or revoke a license OF A PHARMACIST if the
8 applicant or licensee:

9 (1) Fraudulently or deceptively obtains or attempts to obtain a license
10 for the applicant or licensee or for another;

11 (2) Fraudulently or deceptively uses a license;

12 (3) Aids an unauthorized individual to practice pharmacy or to represent
13 that the individual is a pharmacist OR A REGISTERED PHARMACY TECHNICIAN;

14 (4) DELEGATES PHARMACY ACTS TO AN UNAUTHORIZED INDIVIDUAL;

15 [(4)] (5) Provides professional services while:

16 (i) Under the influence of alcohol; or

17 (ii) Using any narcotic or controlled dangerous substance, as
18 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
19 therapeutic amounts or without valid medical indication;

20 [(5)] (6) Submits a false statement to collect a fee;

21 [(6)] (7) Willfully makes or files a false report or record as part of
22 practicing pharmacy;

23 [(7)] (8) Willfully fails to file or record any report that is required by law;

24 [(8)] (9) Willfully impedes or obstructs the filing or recording of any
25 report that is required by law;

26 [(9)] (10) Willfully induces another to fail to file or record any report that
27 is required by law;

28 [(10)] (11) Provides or causes to be provided to any authorized prescriber
29 prescription forms that bear the name, address, or other means of identification of a
30 pharmacist or pharmacy;

31 [(11)] (12) Provides remuneration to an authorized prescriber for referring
32 an individual to a pharmacist or pharmacy for a product or service to be provided by
33 that pharmacist or pharmacy;

- 1 [(12)] (13) Agrees with an authorized prescriber OR REGISTERED
2 PHARMACY TECHNICIAN to prepare or dispense a secret formula prescription;
- 3 [(13)] (14) Except as to an association that has remained in continuous
4 existence since July 1, 1963, associates as a partner, coowner, or employee of a
5 pharmacy that is owned wholly or substantially by an authorized prescriber or group
6 of authorized prescribers;
- 7 [(14)] (15) Dispenses any drug, device, or diagnostic for which a
8 prescription is required without a written, oral, or electronically transmitted
9 prescription from an authorized prescriber;
- 10 [(15)] (16) Except as provided in § 12-506 of this title, unless an
11 authorized prescriber authorizes the refill, refills a prescription for any drug, device,
12 or diagnostic for which a prescription is required;
- 13 [(16)] (17) Violates any provision of § 12-505 of this title, which concerns
14 the labeling requirements for prescriptions for drugs, devices, or diagnostics;
- 15 [(17)] (18) Violates any provision of § 12-603 of this title, which concerns
16 the home dialysis distribution program;
- 17 [(18)] (19) Advertises or otherwise publicly claims to dispense
18 prescriptions or practice pharmacy in a superior manner;
- 19 [(19)] (20) Advertises in a manner that tends to deceive or defraud the
20 public;
- 21 [(20)] (21) Is professionally, physically, or mentally incompetent;
- 22 [(21)] (22) Is convicted of or pleads guilty or nolo contendere to a felony or
23 to a crime involving moral turpitude, whether or not any appeal or other proceeding is
24 pending to have the conviction or plea set aside;
- 25 [(22)] (23) Is convicted of a violation of this title;
- 26 [(23)] (24) Is disciplined by a licensing or disciplinary authority of any
27 state or country or convicted or disciplined by a court of any state or country for an act
28 that would be grounds for disciplinary action under the Board's disciplinary statutes;
- 29 [(24)] (25) Violates any rule or regulation adopted by the Board;
- 30 [(25)] (26) Refuses, withholds from, denies, or discriminates against an
31 individual with regard to the provision of professional services for which the licensee
32 is licensed and qualified to render because the individual is HIV positive;
- 33 [(26)] (27) Violates any provision of § 12-507 of this title;
- 34 [(27)] (28) Provides or causes to be provided confidential patient
35 information to any person without first having obtained the patient's consent, as

1 required by § 12-403(b)(13) of this title and by Title 4, Subtitle 3 of the Health -
2 General Article; [or]

3 [(28)] (29) Fails to cooperate with a lawful investigation conducted by the
4 Board or the Division of Drug Control;

5 (30) DELEGATES PHARMACY ACTS TO A REGISTERED PHARMACY
6 TECHNICIAN, PHARMACY STUDENT, OR A PHARMACY TECHNICIAN TRAINEE
7 OUTSIDE THE SCOPE OF EDUCATION, TRAINING, EXPERIENCE, AND AREA OF
8 PRACTICE OF A LICENSED PHARMACIST; OR

9 (31) DELEGATES PHARMACY ACTS THAT ARE INAPPROPRIATE FOR A
10 REGISTERED PHARMACY TECHNICIAN, PHARMACY STUDENT, OR PHARMACY
11 TECHNICIAN TRAINEE WHO DOES NOT HAVE THE EDUCATION, TRAINING, OR
12 EXPERIENCE TO PERFORM THE DELEGATED PHARMACY ACTS.

13 12-315.

14 (a) Except as otherwise provided in the Administrative Procedure Act, before
15 the Board takes any action under § 12-313 of this subtitle OR § 12-6B-09 OF THIS
16 TITLE, it shall give the individual against whom the action is contemplated an
17 opportunity for a hearing before the Board.

18 12-316.

19 (a) Except as provided in this section for an action under § 12-313 of this
20 subtitle OR § 12-6B-09 OF THIS TITLE, any person aggrieved by a final decision of the
21 Board in a contested case, as defined in the Administrative Procedure Act, may:

22 (1) Appeal that decision to the Board of Review; and

23 (2) Then take any further appeal allowed by the Administrative
24 Procedure Act.

25 (b) (1) Any person aggrieved by a final decision of the Board under § 12-313
26 of this subtitle OR § 12-6B-09 OF THIS TITLE may not appeal to the Secretary or Board
27 of Review but may take a direct judicial appeal.

28 (2) The appeal shall be made as provided for judicial review of final
29 decisions in the Administrative Procedure Act.

30 12-317.

31 (a) In this section, "pharmacist rehabilitation committee" means a group, the
32 majority of which is comprised of pharmacists, that is recognized by the Board.

33 (b) For purposes of this section, a pharmacist rehabilitation committee
34 evaluates and provides assistance to any pharmacist OR REGISTERED PHARMACY
35 TECHNICIAN in need of treatment and rehabilitation for alcoholism, drug abuse,
36 chemical dependency, or other physical, emotional, or mental condition.

1 (c) (1) Except as otherwise provided in this section, the proceedings,
2 records, and files of a pharmacist rehabilitation committee are not discoverable and
3 are not admissible in evidence in any civil action arising out of matters that are being
4 or have been reviewed and evaluated by the pharmacist rehabilitation committee.

5 (2) Paragraph (1) of this subsection does not apply to any record or
6 document that is considered by the pharmacist rehabilitation committee and that
7 otherwise would be subject to discovery and introduction into evidence in a civil trial.

8 (3) For purposes of this subsection, civil action does not include a
9 proceeding before the Board or judicial review of a proceeding before the Board.

10 (d) A person who acts in good faith and within the scope of jurisdiction of a
11 pharmacist rehabilitation committee is not civilly liable for any action as a member of
12 the pharmacist rehabilitation committee or for giving information to, participating in,
13 or contributing to the function of the pharmacist rehabilitation committee.

14 12-319.

15 (a) An action may be maintained in the name of this State or the Board to
16 enjoin:

17 (1) The unauthorized practice of pharmacy; or

18 (2) Conduct that is a ground for disciplinary action under § 12-313 of
19 this subtitle OR § 12-6B-09 OF THIS TITLE.

20 (b) An action may be brought by:

21 (1) The Board, in its own name;

22 (2) The Attorney General, in the name of the State; or

23 (3) The State's Attorney, in the name of the State.

24 (c) An action under this section shall be brought in the county where the
25 defendant resides or engages in the actions sought to be enjoined.

26 (d) Proof of actual damages or that a person will sustain damage if an
27 injunction is not granted is not required for an action under this section.

28 (e) An action under this section is in addition to and not instead of criminal
29 prosecution for unauthorized practice of pharmacy under § 12-701 of this title or
30 disciplinary action under § 12-313 of this subtitle OR § 12-6B-09 OF THIS TITLE.

31 12-320.

32 (a) In investigating an allegation brought against a licensee OR REGISTERED
33 PHARMACY TECHNICIAN under this title, if the Board has reason to believe that a
34 licensee OR REGISTERED PHARMACY TECHNICIAN may cause harm to a person
35 affected by the licensee's practice OR THE ACTS OF A REGISTERED PHARMACY

1 TECHNICIAN, the Board on its own initiative may direct the licensee OR REGISTERED
2 PHARMACY TECHNICIAN to submit to an appropriate examination by a health care
3 provider designated by the Board.

4 (b) In return for the privilege given to a licensee to practice pharmacy OR A
5 REGISTERED PHARMACY TECHNICIAN TO PERFORM DELEGATED PHARMACY ACTS in
6 the State, the licensee OR REGISTERED PHARMACY TECHNICIAN is deemed to have:

7 (1) Consented to submit to an examination under this section, if
8 requested by the Board in writing; and

9 (2) Waived any claim of privilege as to the testimony or examination
10 reports of a health care provider.

11 (c) The failure or refusal of a licensee OR REGISTERED PHARMACY
12 TECHNICIAN to submit to an examination required under this section is prima facie
13 evidence of the licensee's inability to practice pharmacy competently OR THE
14 REGISTERED PHARMACY TECHNICIAN'S INABILITY TO PERFORM DELEGATED
15 PHARMACY ACTS, unless the Board finds that the failure or refusal was beyond the
16 control of the licensee OR REGISTERED PHARMACY TECHNICIAN.

17 (d) The Board shall pay the cost of any examination made under this section.
18 12-403.

19 (a) This section does not require a nonresident pharmacy to violate the laws or
20 regulations of the state in which it is located.

21 (b) Except as otherwise provided in this section, a pharmacy for which a
22 pharmacy permit has been issued under this title:

23 (1) Shall be operated in compliance with the law and with the rules and
24 regulations of the Board;

25 (2) Shall be located and equipped so that the pharmacy may be operated
26 without endangering the public health or safety;

27 (3) Shall ensure that a licensed pharmacist be immediately available on
28 the premises to provide pharmacy services at all times the pharmacy is in operation;

29 (4) Shall be supervised by a licensed pharmacist who is responsible for
30 the operations of the pharmacy at all times the pharmacy is in operation;

31 (5) Shall provide complete pharmaceutical service by preparing and
32 dispensing all prescriptions that reasonably may be expected of a pharmacist;

33 (6) Shall provide services to the general public and may not restrict or
34 limit its services to any group of individuals unless granted a waiver from this
35 requirement by the Board;

1 (7) May not offer pharmaceutical services under any term or condition
2 that tends to interfere with or impair the free and complete exercise of professional
3 pharmaceutical judgment or skill;

4 (8) May not make any agreement that denies a patient a free choice of
5 pharmacist or pharmacy services;

6 (9) May not participate in any activity that is a ground for Board action
7 against a licensed pharmacist under § 12-313 OR A REGISTERED PHARMACY
8 TECHNICIAN UNDER § 12-6B-09 of this title;

9 (10) (i) Shall maintain at all times a current reference library that is
10 appropriate to meet the needs of:

11 1. The practice specialty of that pharmacy; and

12 2. The consumers the pharmacy serves; and

13 (ii) Shall comply with any regulations adopted by the Board
14 establishing the types of texts required to be included in the reference libraries in
15 each of the various practice specialty pharmacies;

16 (11) (i) Shall maintain at all times the minimum professional and
17 technical equipment and sanitary appliances that are necessary in a pharmacy:

18 1. To prepare and dispense prescriptions properly; and

19 2. To otherwise operate a pharmacy; and

20 (ii) Shall:

21 1. Be equipped with the minimum equipment and appliances
22 specified by the Board under this section; and

23 2. Be kept in a clean and orderly manner;

24 (12) Shall store all prescription or nonprescription drugs or devices
25 properly and safely subject to the rules and regulations adopted by the Board;

26 (13) Shall:

27 (i) Make and keep on file for at least 5 years a record of each
28 prescription prepared or dispensed in the pharmacy;

29 (ii) Disclose the records and files maintained of prescriptions for
30 drugs or devices that identify or may be readily associated with the identity of a
31 patient only in accordance with the provisions of Title 4, Subtitle 3 of the Health -
32 General Article; and

33 (iii) Keep additional records as required by the rules and
34 regulations adopted by the Board;

1 (14) Except as otherwise provided under federal law, shall establish and
2 maintain mechanisms to ensure that all prescription drugs or devices used within
3 institutions that provide acute, subacute, or long-term care, or within their related
4 corporate subsidiaries, but stored outside a pharmacy, are stored properly and safely,
5 subject to rules and regulations adopted by the Board and policies established by the
6 institution;

7 (15) Shall provide such personnel, automation, and technology as are
8 necessary to allow the licensed pharmacist employee sufficient time to utilize the
9 pharmacist's knowledge and training and to perform competently the functions of a
10 licensed pharmacist as required by law;

11 (16) Shall provide such personnel, automation, and technology as are
12 necessary to allow the licensed pharmacist employee OR REGISTERED PHARMACY
13 TECHNICIAN to comply with the labeling requirements specified in § 12-505 of this
14 title;

15 (17) With regard to a prescription drug that is delivered in this State by
16 the United States mail, a common carrier, or a delivery service and is not personally
17 hand delivered directly to a patient or to the agent of the patient at the residence of
18 the patient or at another location designated by the patient, shall:

19 (i) Provide a general written notice in each shipment of a
20 prescription drug that alerts a consumer that, under certain circumstances, a
21 medication's effectiveness may be affected by exposure to extremes of heat, cold, or
22 humidity; and

23 (ii) Provide a specific written notice in each shipment of a
24 prescription drug that provides a consumer with a toll-free or local consumer access
25 telephone number accessible during regular hours of operation, which is designed to
26 respond to consumer questions pertaining to medications; [and]

27 (18) (i) May maintain a record log of any prescription that is requested
28 to be filled or refilled by a patient in accordance with the provisions of Title 4, Subtitle
29 3 of the Health - General Article;

30 (ii) If the prescription record of a patient includes the patient's
31 Social Security number, shall keep the Social Security number confidential;

32 (iii) May not list in the record log the type of illness, disability, or
33 condition that is the basis of any dispensing or distribution of a drug by a pharmacist;
34 and

35 (iv) May not list a patient's Social Security number, illness,
36 disability, or condition, or the name and type of drug received in the record log if the
37 log is available to other pharmacy customers; AND

38 (19) MAY NOT ALLOW AN UNAUTHORIZED INDIVIDUAL TO REPRESENT
39 THAT THE INDIVIDUAL IS A PHARMACIST OR REGISTERED PHARMACY TECHNICIAN.

1 (c) (1) The Board may waive any of the requirements of this section for the
2 University of Maryland School of Pharmacy, for nuclear pharmacy and dental
3 pharmacy experimental and teaching programs.

4 (2) The Board may waive the requirements of subsection (b)(5) and (6) of
5 this section for pharmacies that are engaged in pharmaceutical specialties which are
6 recognized by the Board under rules and regulations adopted by the Board.

7 (d) A nonresident pharmacy shall hold a pharmacy permit issued by the
8 Board.

9 (e) (1) In order to obtain a pharmacy permit from the Board, a nonresident
10 pharmacy shall:

11 (i) Submit an application to the Board on the form that the Board
12 requires;

13 (ii) Pay to the Board an application fee set by the Board;

14 (iii) Submit a copy of the most recent inspection report resulting
15 from an inspection conducted by the regulatory or licensing agency of the state in
16 which the nonresident pharmacy is located; and

17 (iv) On the required permit application, identify the name and
18 current address of an agent located in this State officially designated to accept service
19 of process.

20 (2) A nonresident pharmacy shall report a change in the name or address
21 of the resident agent in writing to the Board 30 days prior to the change.

22 (f) A nonresident pharmacy shall:

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

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

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

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

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

35 (6) During its regular hours of operation, but not less than 6 days a
36 week, and for a minimum of 40 hours per week, provide toll-free telephone service to

1 facilitate communication between patients in this State and a pharmacist who has
2 access to the patient's prescription records;

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

5 (8) Comply with the laws of this State relating to the confidentiality of
6 prescription records if there are no laws relating to the confidentiality of prescription
7 records in the state in which the nonresident pharmacy is located; and

8 (9) Comply with the requirements of subsection (b)(17) of this section.

9 (g) Subject to the hearing provisions of § 12-411 of this subtitle, if a pharmacy
10 or a nonresident pharmacy is operated in violation of this section, the Board may
11 suspend the applicable pharmacy permit until the pharmacy complies with this
12 section.

13 12-505.

14 (a) Except for a drug or device dispensed to an inpatient in a hospital or
15 related institution, [a pharmacist shall label each container of drugs or devices that
16 the pharmacist dispenses] EACH CONTAINER OF A DRUG OR DEVICE DISPENSED
17 SHALL BE LABELED IN ACCORDANCE WITH THIS SECTION.

18 (b) In addition to any other information required by law, [the pharmacist
19 shall include on the label] THE LABEL SHALL INCLUDE:

20 (1) The date the prescription is filled; and

21 (2) Unless otherwise required by the prescriber:

22 (i) An expiration date of the drugs or devices which shall be the
23 lesser of:

24 1. 1 year from the date of dispensing;

25 2. The month and year when the drugs or devices expire;

26 3. The appropriate expiration date for repackaged drugs or
27 devices; or

28 4. A shorter period as determined by the pharmacist;

29 (ii) Any appropriate special handling instructions regarding proper
30 storage of the drugs or devices; and

31 (iii) Subject to the provisions of subsection (c) of this section, the
32 name and strength of the drugs or devices.

1 (c) (1) Except as provided in paragraph (2) of this subsection, the
2 [pharmacist] LABEL shall indicate [on the label] the same name for the drug or
3 device as that used by the authorized prescriber.

4 (2) If, under § 12-504 of this subtitle, the pharmacist substitutes a drug
5 or device product for that named by the authorized prescriber, [the pharmacist shall
6 indicate on] the label SHALL INDICATE both the name of the drug or device product
7 and the name of the manufacturer or distributor of the drug or device dispensed.

8 (d) (1) Except as provided in this subsection, if an authorized prescriber
9 dispenses a drug or device, the prescriber shall label each container of the drug or
10 device.

11 (2) In addition to any other information required by law, the authorized
12 prescriber shall include on the label:

13 (i) The name and strength of the drug or device;

14 (ii) The date the prescription is dispensed;

15 (iii) An expiration date of the drug or device which shall be the
16 lesser of:

17 1. 1 year from the date of dispensing;

18 2. The month and year when the drug or device expires; or

19 3. A shorter period as determined by the authorized
20 prescriber; and

21 (iv) Any appropriate special handling instructions regarding proper
22 storage of the drug or device.

23 (3) The labeling requirements of this subsection do not apply if the
24 authorized prescriber dispenses the drug or device:

25 (i) To an inpatient in a hospital or related institution;

26 (ii) In an emergency situation; or

27 (iii) As a sample drug or device dispensed in the regular course of
28 the authorized prescriber's practice.

29 (e) So long as any of the original contents remain in the container, a person
30 may not alter, deface, or remove any label required by this section.

1 SUBTITLE 6B. REGISTERED PHARMACY TECHNICIANS.

2 12-6B-01.

3 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL SHALL
4 BE REGISTERED AND APPROVED BY THE BOARD AS A PHARMACY TECHNICIAN
5 BEFORE THE INDIVIDUAL MAY PERFORM DELEGATED PHARMACY ACTS.

6 (B) THIS SECTION DOES NOT APPLY TO:

7 (1) A PHARMACY STUDENT PERFORMING DELEGATED PHARMACY ACTS
8 UNDER THE DIRECT SUPERVISION OF A LICENSED PHARMACIST AND IN
9 ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD; OR

10 (2) A PHARMACY TECHNICIAN TRAINEE UNDER THE DIRECT
11 SUPERVISION OF A LICENSED PHARMACIST PROVIDED THAT THE INDIVIDUAL DOES
12 NOT PERFORM DELEGATED PHARMACY ACTS FOR MORE THAN 6 MONTHS.

13 12-6B-02.

14 (A) TO QUALIFY FOR REGISTRATION AN APPLICANT SHALL BE AN INDIVIDUAL
15 WHO MEETS THE REQUIREMENTS OF THIS SECTION.

16 (B) THE APPLICANT SHALL:

17 (1) BE OF GOOD MORAL CHARACTER;

18 (2) BE AT LEAST 17 YEARS OLD;

19 (3) (I) 1. BE A HIGH SCHOOL GRADUATE OR HAVE ATTAINED A
20 HIGH SCHOOL EQUIVALENCY; OR

21 2. BE ENROLLED AND IN GOOD STANDING AT A HIGH
22 SCHOOL; OR

23 (II) MEET THE REQUIREMENTS IN SUBSECTION (D) OF THIS
24 SECTION;

25 (4) HAVE SUCCESSFULLY PASSED AN EXAMINATION APPROVED BY THE
26 BOARD;

27 (5) COMPLETE A PHARMACY TECHNICIAN TRAINING PROGRAM
28 APPROVED BY THE BOARD THAT:

29 (I) INCLUDES 160 HOURS OF WORK EXPERIENCE; AND

30 (II) IS NO LONGER THAN 6 MONTHS' DURATION; AND

31 (6) SUBMIT A REQUEST FOR A STATE CRIMINAL HISTORY RECORDS
32 CHECK.

1 (C) THE BOARD MAY NOT APPROVE AN APPLICATION UNTIL THE STATE
2 CRIMINAL HISTORY RECORDS CHECK IS COMPLETED.

3 (D) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION
4 (B)(3) AND (4) OF THIS SECTION, THE APPLICANT QUALIFIES FOR REGISTRATION IF:

5 (1) THE APPLICANT HAS WORKED IN THE PHARMACY AREA OF A
6 PHARMACY OPERATED BY THE SAME PHARMACY PERMIT HOLDER SINCE JANUARY 1,
7 2004;

8 (2) THE PHARMACY PERMIT HOLDER FOR WHOM THE APPLICANT
9 WORKS ATTESTS IN WRITING THAT THE APPLICANT HAS WORKED IN THE PHARMACY
10 AREA OPERATED BY THE PHARMACY PERMIT HOLDER CONTINUOUSLY SINCE
11 JANUARY 1, 2004;

12 (3) A PHARMACIST WHO HAS SUPERVISED THE APPLICANT FOR AT
13 LEAST 6 MONTHS ATTESTS IN WRITING THAT THE INDIVIDUAL HAS PERFORMED
14 COMPETENTLY; AND

15 (4) THE APPLICANT OTHERWISE MEETS THE REQUIREMENTS OF
16 SUBSECTION (B) OF THIS SECTION.

17 (E) AN INDIVIDUAL, AT LEAST 16 YEARS AND 6 MONTHS OLD, MAY BEGIN
18 FULFILLING THE PHARMACY TECHNICIAN REGISTRATION REQUIREMENTS UNDER
19 THIS SUBTITLE.

20 (F) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE BOARD
21 MAY WAIVE ANY REQUIREMENT OF THIS SUBTITLE FOR AN INDIVIDUAL WHO IS
22 REGISTERED AS OR HAS WORKED AS A PHARMACY TECHNICIAN IN ANOTHER STATE.

23 (2) THE BOARD MAY GRANT A WAIVER UNDER THIS SUBSECTION ONLY
24 IF THE APPLICANT:

25 (I) PAYS THE APPLICATION FEE REQUIRED UNDER § 12-6B-03 OF
26 THIS SUBTITLE; AND

27 (II) 1. PROVIDES SUFFICIENT EVIDENCE THAT THE APPLICANT
28 WAS REGISTERED IN A STATE WITH REGISTRATION OR LICENSING REQUIREMENTS
29 THAT ARE SUBSTANTIALLY SIMILAR TO THE REGISTRATION REQUIREMENTS OF THIS
30 SUBTITLE; OR

31 2. HAS WORKED AS A PHARMACY TECHNICIAN IN ANOTHER
32 STATE AND SATISFIES ANY ADDITIONAL REQUIREMENTS ESTABLISHED BY THE
33 BOARD IN REGULATION.

34 12-6B-03.

35 (A) AN APPLICANT FOR REGISTRATION SHALL:

1 (1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE
2 BOARD REQUIRES;

3 (2) PROVIDE DOCUMENTATION OF THE COMPLETION OF A PHARMACY
4 TECHNICIAN TRAINING PROGRAM UNDER § 12-6B-02(B)(5) OF THIS SUBTITLE;

5 (3) PROVIDE DOCUMENTATION OF HAVING SUCCESSFULLY COMPLETED
6 AN EXAMINATION APPROVED BY THE BOARD;

7 (4) SUBMIT TO A REQUEST FOR A STATE CRIMINAL HISTORY RECORDS
8 CHECK; AND

9 (5) PAY THE APPLICATION FEES SET BY THE BOARD.

10 (B) THE APPLICATION SHALL BE SIGNED BY THE APPLICANT.

11 12-6B-04.

12 (A) THE BOARD SHALL REGISTER AS A PHARMACY TECHNICIAN ANY
13 APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

14 (B) (1) THE BOARD MAY SET REASONABLE FEES FOR THE ISSUANCE AND
15 RENEWAL OF REGISTRATIONS AND OTHER SERVICES.

16 (2) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE
17 COST OF REGISTERING PHARMACY TECHNICIANS.

18 12-6B-05.

19 (A) A REGISTERED PHARMACY TECHNICIAN SHALL NOTIFY THE BOARD OF
20 EACH PLEA OF GUILTY FOR, CONVICTION OF, OR ENTRY OF A PLEA OF NOLO
21 CONTENDERE FOR A FELONY OR A CRIME INVOLVING MORAL TURPITUDE,
22 REGARDLESS OF WHETHER:

23 (1) AN ADJUDICATION OF GUILT OR SENTENCING OR IMPOSITION OF
24 SENTENCE IS WITHHELD; OR

25 (2) ANY APPEAL OR OTHER PROCEEDING IS PENDING REGARDING THE
26 MATTER.

27 (B) THE REGISTERED PHARMACY TECHNICIAN SHALL NOTIFY THE BOARD
28 WITHIN 7 DAYS OF THE CONVICTION OR ENTRY OF THE PLEA.

29 12-6B-06.

30 (A) REGISTRATION AUTHORIZES A REGISTERED PHARMACIST TECHNICIAN TO
31 PERFORM DELEGATED PHARMACY ACTS AS DEFINED IN § 12-101 OF THIS TITLE
32 WHILE THE REGISTRATION IS EFFECTIVE.

33 (B) A REGISTERED PHARMACY TECHNICIAN OR A PHARMACY TECHNICIAN
34 TRAINEE MAY NOT:

1 (1) ACT WITHIN THE PARAMETERS OF A THERAPY MANAGEMENT
2 CONTRACT AS PROVIDED UNDER SUBTITLE 6A OF THIS TITLE;

3 (2) ADMINISTER AN INFLUENZA VACCINATION IN ACCORDANCE WITH §
4 12-508 OF THIS TITLE;

5 (3) DELEGATE A PHARMACY ACT THAT WAS DELEGATED TO THE
6 REGISTERED PHARMACY TECHNICIAN OR INDIVIDUAL ENGAGING IN A BOARD
7 APPROVED TECHNICIAN TRAINING PROGRAM; OR

8 (4) PERFORM OTHER FUNCTIONS PROHIBITED BY REGULATIONS
9 ADOPTED BY THE BOARD.

10 12-6B-07.

11 (A) (1) UNLESS THE REGISTRATION IS RENEWED FOR AN ADDITIONAL TERM
12 AS PROVIDED IN THIS SECTION, REGISTRATION EXPIRES ON THE DATE SET BY THE
13 BOARD.

14 (2) THE ABILITY OF A REGISTERED PHARMACY TECHNICIAN TO
15 FUNCTION AS A PHARMACY TECHNICIAN TERMINATES ON THE DATE OF EXPIRATION
16 OF THE PHARMACY TECHNICIAN'S REGISTRATION UNLESS RENEWED.

17 (3) REGISTRATION MAY NOT BE RENEWED FOR A TERM LONGER THAN 2
18 YEARS.

19 (4) THE REGISTRATION OF A PHARMACY TECHNICIAN WHO QUALIFIED
20 FOR REGISTRATION UNDER § 12-6B-02(D) OF THIS TITLE PERMANENTLY EXPIRES ON
21 THE DATE THE REGISTERED PHARMACY TECHNICIAN'S EMPLOYMENT TERMINATES
22 WITH THE PHARMACY PERMIT HOLDER THAT MADE THE ATTESTATION REQUIRED
23 UNDER § 12-6B-02(D) OF THIS SUBTITLE.

24 (B) AT LEAST 1 MONTH BEFORE A REGISTRATION EXPIRES, THE BOARD SHALL
25 SEND TO THE REGISTERED PHARMACY TECHNICIAN, BY FIRST-CLASS MAIL TO THE
26 LAST KNOWN ADDRESS OF THE REGISTERED PHARMACY TECHNICIAN, A RENEWAL
27 NOTICE THAT STATES:

28 (1) THE DATE ON WHICH THE REGISTRATION EXPIRES;

29 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
30 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
31 THE PHARMACY TECHNICIAN'S REGISTRATION EXPIRES; AND

32 (3) THE AMOUNT OF THE RENEWAL FEE.

33 (C) A REGISTERED PHARMACY TECHNICIAN PERIODICALLY MAY RENEW A
34 PHARMACY TECHNICIAN'S REGISTRATION FOR AN ADDITIONAL 2-YEAR TERM, IF THE
35 REGISTERED PHARMACY TECHNICIAN:

1 (1) OTHERWISE IS ENTITLED TO BE REGISTERED AS A PHARMACY
2 TECHNICIAN;

3 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
4 THAT THE BOARD REQUIRES;

5 (3) MEETS THE CONTINUING EDUCATION REQUIREMENTS SET BY THE
6 BOARD UNDER THIS SECTION; AND

7 (4) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD.

8 (D) IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS
9 ESTABLISHED BY THE BOARD, THE BOARD SHALL ESTABLISH CONTINUING
10 EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF REGISTRATIONS
11 UNDER THIS SECTION.

12 (E) THE BOARD SHALL RENEW THE REGISTRATION OF EACH PHARMACY
13 TECHNICIAN WHO MEETS THE REQUIREMENTS OF THIS SECTION.

14 12-6B-08.

15 (A) EACH REGISTERED PHARMACY TECHNICIAN SHALL:

16 (1) DISPLAY THE PHARMACY TECHNICIAN'S REGISTRATION IN THE
17 OFFICE OR PLACE OF BUSINESS IN WHICH THE PHARMACY TECHNICIAN IS
18 WORKING; OR

19 (2) HAVE THE REGISTRATION ON THE PHARMACY TECHNICIAN'S
20 PERSON AVAILABLE FOR VIEWING.

21 (B) WHEN PERFORMING DELEGATED PHARMACY ACTS, THE REGISTERED
22 PHARMACY TECHNICIAN SHALL WEAR IDENTIFICATION THAT CONSPICUOUSLY
23 IDENTIFIES THE REGISTERED PHARMACY TECHNICIAN AS A REGISTERED
24 PHARMACY TECHNICIAN.

25 12-6B-09.

26 SUBJECT TO THE HEARING PROVISION OF § 12-315 OF THIS TITLE, THE BOARD
27 MAY DENY A PHARMACY TECHNICIAN'S REGISTRATION TO ANY APPLICANT,
28 REPRIMAND A REGISTERED PHARMACY TECHNICIAN, PLACE ANY PHARMACY
29 TECHNICIAN'S REGISTRATION ON PROBATION, OR SUSPEND OR REVOKE A
30 PHARMACY TECHNICIAN'S REGISTRATION IF THE APPLICANT OR PHARMACY
31 TECHNICIAN REGISTRANT:

32 (1) PERFORMS AN ACT THAT IS RESTRICTED TO A LICENSED
33 PHARMACIST;

34 (2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
35 OBTAIN A PHARMACY TECHNICIAN'S REGISTRATION FOR THE APPLICANT OR ASSISTS

1 OR ATTEMPTS TO ASSIST ANOTHER IN FRAUDULENTLY OR DECEPTIVELY OBTAINING
2 A PHARMACY TECHNICIAN'S REGISTRATION;

3 (3) FRAUDULENTLY USES A PHARMACY TECHNICIAN'S REGISTRATION;

4 (4) KNOWINGLY AIDS AN UNAUTHORIZED INDIVIDUAL TO PRACTICE
5 PHARMACY OR TO REPRESENT THAT THE INDIVIDUAL IS A LICENSED PHARMACIST
6 OR REGISTERED PHARMACY TECHNICIAN;

7 (5) PERFORMS DELEGATED PHARMACY ACTS WHILE:

8 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

9 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS
10 SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER
11 DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL
12 INDICATION;

13 (6) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

14 (7) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD AS PART
15 OF THE REGISTERED PHARMACY TECHNICIAN'S DUTIES OR EMPLOYMENT;

16 (8) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT THAT IS
17 REQUIRED BY LAW;

18 (9) WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF
19 ANY REPORT THAT IS REQUIRED BY LAW;

20 (10) WILLFULLY INDUCES ANOTHER TO FAIL TO FILE OR RECORD ANY
21 REPORT THAT IS REQUIRED BY LAW;

22 (11) PROVIDES OR CAUSES TO BE PROVIDED TO ANY AUTHORIZED
23 PRESCRIBER PRESCRIPTION FORMS THAT BEAR THE NAME, ADDRESS, OR OTHER
24 MEANS OF IDENTIFICATION OF A PHARMACIST OR PHARMACY;

25 (12) PROVIDES REMUNERATION TO AN AUTHORIZED PRESCRIBER FOR
26 REFERRING AN INDIVIDUAL TO A LICENSED PHARMACIST, REGISTERED PHARMACY
27 TECHNICIAN, OR PHARMACY FOR A PRODUCT OR SERVICE TO BE PROVIDED BY THAT
28 LICENSED PHARMACIST, REGISTERED PHARMACY TECHNICIAN, OR PHARMACY;

29 (13) AGREES WITH AN AUTHORIZED PRESCRIBER OR PHARMACIST TO
30 PREPARE OR DISPENSE A SECRET FORMULA PRESCRIPTION;

31 (14) EXCEPT AS TO AN ASSOCIATION THAT HAS REMAINED IN
32 CONTINUOUS EXISTENCE SINCE JULY 1, 1963, ASSOCIATES AS A PARTNER,
33 CO-OWNER, OR EMPLOYEE OF A PHARMACY THAT IS OWNED WHOLLY OR
34 SUBSTANTIALLY BY AN AUTHORIZED PRESCRIBER OR GROUP OF AUTHORIZED
35 PRESCRIBERS;

1 (15) KNOWINGLY AIDS A PHARMACIST IN DISPENSING ANY DRUG,
2 DEVICE, OR DIAGNOSTIC FOR WHICH A PRESCRIPTION IS REQUIRED WITHOUT A
3 WRITTEN, ORAL, OR ELECTRONICALLY TRANSMITTED PRESCRIPTION FROM AN
4 AUTHORIZED PRESCRIBER;

5 (16) UNLESS AN AUTHORIZED PRESCRIBER AUTHORIZES THE REFILL,
6 REFILLS A PRESCRIPTION FOR ANY DRUG, DEVICE, OR DIAGNOSTIC FOR WHICH A
7 PRESCRIPTION IS REQUIRED;

8 (17) VIOLATES ANY LABELING REQUIREMENTS IN THIS TITLE;

9 (18) VIOLATES ANY PROVISION OF § 12-603 OF THIS TITLE, WHICH
10 CONCERNS THE HOME DIALYSIS DISTRIBUTION PROGRAM;

11 (19) ADVERTISES OR OTHERWISE PUBLICLY CLAIMS TO DISPENSE
12 PRESCRIPTIONS IN A SUPERIOR MANNER;

13 (20) ADVERTISES IN A MANNER THAT TENDS TO DECEIVE OR DEFRAUD
14 THE PUBLIC;

15 (21) IS PHYSICALLY OR MENTALLY INCOMPETENT;

16 (22) PLEADED GUILTY OR NOLO CONTENDERE TO, OR HAS BEEN FOUND
17 GUILTY OF, A FELONY OR A CRIME INVOLVING MORAL TURPITUDE, REGARDLESS OF
18 WHETHER:

19 (I) AN ADJUDICATION OF GUILT OR SENTENCING OR IMPOSITION
20 OF SENTENCE IS WITHHELD; OR

21 (II) ANY APPEAL OR OTHER PROCEEDING IS PENDING REGARDING
22 THE MATTER;

23 (23) VIOLATES ANY PROVISION OF THIS TITLE;

24 (24) IS DISCIPLINED BY A LICENSING, REGISTERING, OR DISCIPLINARY
25 AUTHORITY OF ANY STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A
26 COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR
27 DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;

28 (25) VIOLATES ANY REGULATION ADOPTED BY THE BOARD;

29 (26) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST
30 AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR
31 WHICH THE REGISTERED PHARMACY TECHNICIAN IS REGISTERED AND QUALIFIED
32 TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

33 (27) PARTICIPATES IN ANY ACTIVITY THAT IS GROUNDS FOR BOARD
34 ACTION UNDER § 12-313 OR § 12-409 OF THIS TITLE;

35 (28) PROVIDES OR CAUSES TO BE PROVIDED CONFIDENTIAL PATIENT
36 INFORMATION TO ANY PERSON WITHOUT FIRST HAVING OBTAINED THE PATIENT'S

1 CONSENT, AS REQUIRED BY § 12-403(B)(13) OF THIS TITLE AND BY TITLE 4, SUBTITLE
2 3 OF THE HEALTH - GENERAL ARTICLE;

3 (29) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
4 BY THE BOARD OR THE DIVISION OF DRUG CONTROL;

5 (30) PERFORMS DELEGATED PHARMACY ACTS IN AN INCOMPETENT
6 MANNER; OR

7 (31) PERFORMS DELEGATED PHARMACY ACTS THAT ARE INAPPROPRIATE
8 BASED ON THE REGISTERED PHARMACY TECHNICIAN'S EDUCATION, TRAINING, AND
9 EXPERIENCE.

10 12-6B-10.

11 (A) IF AFTER A HEARING UNDER § 12-315 OF THIS TITLE, THE BOARD FINDS
12 THAT THERE IS A GROUND UNDER § 12-6B-09 OF THIS SUBTITLE TO REPRIMAND A
13 REGISTERED PHARMACY TECHNICIAN, PLACE A PHARMACY TECHNICIAN'S
14 REGISTRATION ON PROBATION, OR SUSPEND OR REVOKE A PHARMACY
15 TECHNICIAN'S REGISTRATION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING
16 \$2,500:

17 (1) INSTEAD OF REPRIMANDING THE REGISTERED PHARMACY
18 TECHNICIAN, PLACING THE REGISTERED PHARMACY TECHNICIAN ON PROBATION,
19 OR SUSPENDING OR REVOKING THE PHARMACY TECHNICIAN'S REGISTRATION; OR

20 (2) IN ADDITION TO REPRIMANDING THE REGISTERED PHARMACY
21 TECHNICIAN, PLACING THE REGISTERED PHARMACY TECHNICIAN ON PROBATION,
22 OR SUSPENDING OR REVOKING THE PHARMACY TECHNICIAN'S REGISTRATION.

23 (B) THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS FOR THE
24 IMPOSITION OF PENALTIES UNDER THIS SECTION.

25 (C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION
26 INTO THE GENERAL FUND OF THIS STATE.

27 12-6B-11.

28 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A
29 PHARMACY TECHNICIAN'S REGISTRATION, A REGISTERED PHARMACY TECHNICIAN
30 MAY NOT SURRENDER THE PHARMACY TECHNICIAN'S REGISTRATION NOR MAY THE
31 PHARMACY TECHNICIAN'S REGISTRATION LAPSE BY OPERATION OF LAW WHILE THE
32 REGISTERED PHARMACY TECHNICIAN IS UNDER INVESTIGATION OR WHILE
33 CHARGES ARE PENDING AGAINST A REGISTERED PHARMACY TECHNICIAN.

34 (B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE
35 REGISTERED PHARMACY TECHNICIAN UNDER INVESTIGATION OR AGAINST WHOM
36 CHARGES ARE PENDING TO ACCEPT THE SURRENDER OF THE PHARMACY
37 TECHNICIAN'S REGISTRATION.

1 12-6B-12.

2 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT
3 WORK, ATTEMPT TO WORK, OR OFFER TO WORK AS A REGISTERED PHARMACY
4 TECHNICIAN IN THIS STATE UNLESS REGISTERED WITH THE BOARD.

5 12-6B-13.

6 (A) AN INDIVIDUAL MAY NOT OBTAIN A PHARMACY TECHNICIAN'S
7 REGISTRATION BY MAKING A FALSE REPRESENTATION.

8 (B) ON CONVICTION OF AN INDIVIDUAL FOR MAKING A FALSE
9 REPRESENTATION TO THE BOARD IN ORDER TO REGISTER AS A PHARMACY
10 TECHNICIAN, THE PHARMACY TECHNICIAN'S REGISTRATION IS VOID.

11 12-6B-14.

12 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL
13 MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES,
14 METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS REGISTERED
15 TO WORK AS A REGISTERED PHARMACY TECHNICIAN UNLESS REGISTERED IN
16 ACCORDANCE WITH THIS SUBTITLE.

17 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL
18 MAY NOT USE THE TERMS "REGISTERED PHARMACY TECHNICIAN" OR "PHARMACY
19 TECHNICIAN" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL IS
20 AUTHORIZED TO WORK AS A REGISTERED PHARMACY TECHNICIAN UNLESS
21 REGISTERED AS A PHARMACY TECHNICIAN UNDER THIS SUBTITLE.

22 12-707.

23 (a) A person who violates any provision of the following subtitles or sections of
24 this title is guilty of a misdemeanor and on conviction is subject to a fine not
25 exceeding \$1,000:

26 (1) § 12-311 ("Display of licenses");

27 (2) Subtitle 4 ("Pharmacy permits");

28 (3) § 12-502(b) ("Pharmaceutical information");

29 (4) § 12-505 ("Labeling requirements for prescription medicines"); and

30 (5) § 12-604 ("General power to inspect drugs, devices, and other
31 products").

32 (b) A person who violates any provision of the following sections of this title is
33 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
34 imprisonment not exceeding 1 year or both:

35 (1) § 12-602 ("Distribution permits");

- 1 (2) § 12-701 ("Practicing pharmacy without license");
- 2 (3) § 12-702 ("License obtained by false representation");
- 3 (4) § 12-703 ("Operating a pharmacy without permit"); [and]
- 4 (5) § 12-704 ("Misrepresentations"); AND
- 5 (6) § 12-6B-12 ("WORKING AS AN UNREGISTERED PHARMACY
- 6 TECHNICIAN").

7 (c) Each day that a violation of any section of Subtitle 4 of this title continues
8 constitutes a separate offense.

9 (d) Within 10 days after a court renders the conviction, the court shall report
10 to the Board each conviction of a pharmacist OR REGISTERED PHARMACY
11 TECHNICIAN for:

- 12 (1) Any crime regarding the pharmacy or drug laws that involves
- 13 professional misconduct; or
- 14 (2) Any crime that involves the State law regarding controlled dangerous
- 15 substances or the federal narcotic laws.

16 (e) (1) Any person who violates § 12-701 ("Practicing pharmacy without a
17 license"), [or] § 12-703 ("Operating a pharmacy without a permit"), OR § 12-6B-12
18 ("WORKING AS AN UNREGISTERED PHARMACY TECHNICIAN") of this [subtitle] TITLE
19 is subject to a civil fine of not more than \$50,000 to be assessed by the Board.

20 (2) The Board shall pay any penalty collected under this subsection into
21 the State Board of Pharmacy Fund.

22 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article - Health Occupations**

25 12-6B-06.

26 (a) Registration authorizes a registered pharmacist technician to perform
27 delegated pharmacy acts as defined in § 12-101 of this title while the registration is
28 effective.

29 (b) A registered pharmacy technician or a pharmacy technician trainee may
30 not:

31 (1) [Act within the parameters of a therapy management contract as
32 provided under Subtitle 6A of this title;

33 (2)] Administer an influenza vaccination in accordance with § 12-508 of
34 this title;

1 [(3)] (2) Delegate a pharmacy act that was delegated to the registered
2 pharmacy technician or individual engaging in a Board approved technician training
3 program; or

4 [(4)] (3) Perform other functions prohibited by regulations adopted by
5 the Board.

6 SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of
7 Pharmacy shall review its fees and expenditures for the registration of pharmacy
8 technicians and report to the Senate Education, Health, and Environmental Affairs
9 Committee and the House Health and Government Operations Committee by
10 January 1, 2009, on the reasonableness of the fees to cover the expenditures.

11 SECTION 6. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of this
12 Act shall take effect on the taking effect of the termination provision specified in
13 Section 5 of Chapter 249 of the Acts of the General Assembly of 2002. If that
14 termination provision takes effect, Section 1 of this Act shall be abrogated and of no
15 further force and effect. This Act may not be interpreted to have any effect on that
16 termination provision.

17 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions
18 of Section 6 of this Act, this Act shall take effect July 1, 2006.