
By: **Delegates Quinter, Carter, Gutierrez, and Menes**

Introduced and read first time: February 10, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Pharmacy - Disciplinary Grounds - Refusal to Dispense**
3 **Prescription**

4 FOR the purpose of authorizing the State Board of Pharmacy to deny a certain license
5 to certain applicants, reprimand certain licensees, place certain licensees on
6 probation, or suspend or revoke certain licenses for willfully refusing to dispense
7 or refill a prescription except under certain circumstances; making a stylistic
8 change; and generally relating to adding the refusal to dispense prescriptions as
9 a disciplinary ground for the State Board of Pharmacy.

10 BY repealing and reenacting, with amendments,

11 Article - Health Occupations

12 Section 12-313

13 Annotated Code of Maryland

14 (2005 Replacement Volume)

15 BY repealing and reenacting, without amendments,

16 Article - Health Occupations

17 Section 12-501

18 Annotated Code of Maryland

19 (2005 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Health Occupations**

23 12-313.

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

26 (b) Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on
27 the affirmative vote of a majority of its members then serving, may deny a license to

1 any applicant, reprimand any licensee, place any licensee on probation, or suspend or
2 revoke a license if the applicant or licensee:

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

5 (2) Fraudulently or deceptively uses a license;

6 (3) Aids an unauthorized individual to practice pharmacy or to represent
7 that the individual is a pharmacist;

8 (4) Provides professional services while:

9 (i) Under the influence of alcohol; or

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

13 (5) Submits a false statement to collect a fee;

14 (6) Willfully makes or files a false report or record as part of practicing
15 pharmacy;

16 (7) Willfully fails to file or record any report that is required by law;

17 (8) Willfully impedes or obstructs the filing or recording of any report
18 that is required by law;

19 (9) Willfully induces another to fail to file or record any report that is
20 required by law;

21 (10) Provides or causes to be provided to any authorized prescriber
22 prescription forms that bear the name, address, or other means of identification of a
23 pharmacist or pharmacy;

24 (11) Provides remuneration to an authorized prescriber for referring an
25 individual to a pharmacist or pharmacy for a product or service to be provided by that
26 pharmacist or pharmacy;

27 (12) Agrees with an authorized prescriber to prepare or dispense a secret
28 formula prescription;

29 (13) Except as to an association that has remained in continuous
30 existence since July 1, 1963, associates as a partner, [coowner] CO-OWNER, or
31 employee of a pharmacy that is owned wholly or substantially by an authorized
32 prescriber or group of authorized prescribers;

33 (14) Dispenses any drug, device, or diagnostic for which a prescription is
34 required without a written, oral, or electronically transmitted prescription from an
35 authorized prescriber;

1 (15) Except as provided in § 12-506 of this title, unless an authorized
2 prescriber authorizes the refill, refills a prescription for any drug, device, or
3 diagnostic for which a prescription is required;

4 (16) Violates any provision of § 12-505 of this title, which concerns the
5 labeling requirements for prescriptions for drugs, devices, or diagnostics;

6 (17) Violates any provision of § 12-603 of this title, which concerns the
7 home dialysis distribution program;

8 (18) Advertises or otherwise publicly claims to dispense prescriptions or
9 practice pharmacy in a superior manner;

10 (19) Advertises in a manner that tends to deceive or defraud the public;

11 (20) Is professionally, physically, or mentally incompetent;

12 (21) Is convicted of or pleads guilty or nolo contendere to a felony or to a
13 crime involving moral turpitude, whether or not any appeal or other proceeding is
14 pending to have the conviction or plea set aside;

15 (22) Is convicted of a violation of this title;

16 (23) Is disciplined by a licensing or disciplinary authority of any state or
17 country or convicted or disciplined by a court of any state or country for an act that
18 would be grounds for disciplinary action under the Board's disciplinary statutes;

19 (24) Violates any rule or regulation adopted by the Board;

20 (25) Refuses, withholds from, denies, or discriminates against an
21 individual with regard to the provision of professional services for which the licensee
22 is licensed and qualified to render because the individual is HIV positive;

23 (26) Violates any provision of § 12-507 of this title;

24 (27) Provides or causes to be provided confidential patient information to
25 any person without first having obtained the patient's consent, as required by §
26 12-403(b)(13) of this title and by Title 4, Subtitle 3 of the Health - General Article;
27 [or]

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

30 (29) EXCEPT AS PROVIDED IN § 12-501 OF THIS TITLE, WILLFULLY
31 REFUSES TO DISPENSE OR REFILL A PRESCRIPTION.

32 12-501.

33 (a) A pharmacist may refuse to dispense or refill a prescription if the decision
34 is based on professional judgment, experience, knowledge, or available reference
35 materials.

1 (b) (1) Except as provided in paragraph (2) of this subsection, if a
2 pharmacist refuses to dispense or refill a prescription, the pharmacist shall, to the
3 extent practicable, notify the authorized prescriber that the prescription or refill was
4 refused within 72 hours after the refusal.

5 (2) Paragraph (1) of this subsection does not apply if a pharmacist is
6 unable to determine the name of the authorized prescriber.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2006.