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

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Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Public Health - Licensed Pharmacists - Contraception Dispensing Program**

3 FOR the purpose of establishing the Contraception Dispensing Program in the
4 Department of Health and Mental Hygiene; providing for the purpose of the
5 Program; authorizing the Department to adopt certain regulations, collect
6 certain fees, issue and renew certificates to certain licensed pharmacists, and
7 conduct and approve certain educational training programs; requiring that
8 licensed pharmacists, to qualify for a certificate, complete certain educational
9 training programs; requiring applicants for certificates to submit certain
10 applications and pay a certain application fee; requiring the Department or
11 certain entities to issue a certificate to certain licensed pharmacists; requiring
12 the certificates to include certain information; providing for the replacement,
13 duration, and renewal process of the certificates; authorizing licensed
14 pharmacists who are certified to dispense emergency contraception without a
15 certain prescription in accordance with certain procedures; requiring certain
16 licensed pharmacists and the Department to develop a written protocol
17 authorizing certain licensed pharmacists to dispense emergency contraception;
18 requiring certain licensed pharmacists to follow a certain procedure prior to
19 dispensing emergency contraception; requiring the Department to develop
20 certain fact sheets, in consultation with certain entities, to distribute to certain
21 individuals; requiring certain licensed pharmacists to record the number of
22 individuals receiving emergency contraception and to report the number at
23 certain times to the Department; requiring review and modification of the
24 protocol by the Department at certain times; providing that this Act does not
25 affect, and may not be construed as affecting, the requirements of existing law
26 relating to maintaining the confidentiality of medical records; prohibiting a
27 cause of action to arise against certain licensed pharmacists except under

1 certain circumstances; providing that this Act does not affect, and may not be
2 construed as affecting, certain immunities or defenses to which licensed
3 pharmacists may be entitled; providing that this Act may not be construed to
4 require a licensed pharmacist to obtain a certain certificate or participate in a
5 certain program; requiring certain regulations be adopted within a certain
6 period of time; defining certain terms; and generally relating to licensed
7 pharmacists and the Contraception Dispensing Program.

8 BY adding to
9 Article - Health - General
10 Section 13-2301 through 13-2308, inclusive, to be under the new subtitle
11 "Subtitle 23. Contraception Dispensing Program"
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2005 Supplement)

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

16 **Article - Health - General**

17 **SUBTITLE 23. CONTRACEPTION DISPENSING PROGRAM.**

18 13-2301.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE DEPARTMENT OR A
22 PRIVATE OR PUBLIC ENTITY TO DISPENSE EMERGENCY CONTRACEPTION.

23 (C) (1) "EMERGENCY CONTRACEPTION" MEANS MEDICATION THAT
24 PREVENTS PREGNANCY AFTER SEXUAL INTERCOURSE.

25 (2) "EMERGENCY CONTRACEPTION" DOES NOT INCLUDE
26 ABORTIFACIENTS.

27 (D) "PROGRAM" MEANS THE CONTRACEPTION DISPENSING PROGRAM.

28 13-2302.

29 (A) THERE IS A CONTRACEPTION DISPENSING PROGRAM IN THE
30 DEPARTMENT.

31 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE A MEANS OF
32 AUTHORIZING LICENSED PHARMACISTS TO DISPENSE EMERGENCY
33 CONTRACEPTION.

1 13-2303.

2 THE DEPARTMENT SHALL:

3 (1) ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE PROGRAM;

4 (2) COLLECT FEES NECESSARY FOR THE ADMINISTRATION OF THE
5 PROGRAM;

6 (3) ISSUE AND RENEW CERTIFICATES TO LICENSED PHARMACISTS WHO
7 MEET THE REQUIREMENTS OF THIS SUBTITLE; AND

8 (4) (I) CONDUCT EDUCATIONAL TRAINING PROGRAMS DESCRIBED
9 UNDER § 13-2304 OF THIS SUBTITLE; AND

10 (II) APPROVE EDUCATIONAL TRAINING PROGRAMS CONDUCTED BY
11 OTHER STATE AGENCIES OR PRIVATE ENTITIES.

12 13-2304.

13 (A) TO QUALIFY FOR A CERTIFICATE, A LICENSED PHARMACIST SHALL
14 SUCCESSFULLY COMPLETE AN EDUCATIONAL TRAINING PROGRAM APPROVED BY
15 THE DEPARTMENT.

16 (B) EDUCATIONAL TRAINING PROGRAMS REQUIRED UNDER THIS SECTION
17 SHALL INCLUDE:

18 (1) CONDUCT OF SENSITIVE COMMUNICATIONS;

19 (2) QUALITY ASSURANCE;

20 (3) REFERRAL TO ADDITIONAL SERVICES; AND

21 (4) DOCUMENTATION.

22 13-2305.

23 AN APPLICANT FOR A CERTIFICATE SHALL:

24 (1) SUBMIT AN APPLICATION TO THE DEPARTMENT OR A PRIVATE OR
25 PUBLIC ENTITY ON THE FORM THAT THE DEPARTMENT REQUIRES; AND

26 (2) PAY TO THE DEPARTMENT OR A PRIVATE OR PUBLIC ENTITY THE
27 APPLICATION FEE SET BY THE DEPARTMENT.

28 13-2306.

29 (A) THE DEPARTMENT OR A PRIVATE OR PUBLIC ENTITY SHALL ISSUE A
30 CERTIFICATE TO ANY LICENSED PHARMACIST WHO MEETS THE REQUIREMENTS OF
31 THIS SUBTITLE.

1 (B) EACH CERTIFICATE SHALL INCLUDE:

2 (1) THE FULL NAME OF THE CERTIFICATE HOLDER; AND

3 (2) A SERIAL NUMBER.

4 (C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST,
5 DESTROYED, OR MUTILATED CERTIFICATE IF THE CERTIFICATE HOLDER PAYS THE
6 CERTIFICATE REPLACEMENT FEE.

7 (D) (1) THE CERTIFICATE SHALL BE VALID FOR 3 YEARS.

8 (2) IN ORDER TO RENEW THE CERTIFICATE FOR AN ADDITIONAL 3
9 YEARS, THE APPLICANT SHALL:

10 (I) SUCCESSFULLY COMPLETE A REFRESHER TRAINING PROGRAM
11 APPROVED BY THE DEPARTMENT; OR

12 (II) DEMONSTRATE PROFICIENCY TO THE DEPARTMENT OR A
13 PRIVATE OR PUBLIC ENTITY ISSUING CERTIFICATES UNDER THIS SUBTITLE.

14 13-2307.

15 (A) A LICENSED PHARMACIST WHO IS CERTIFIED MAY DISPENSE EMERGENCY
16 CONTRACEPTION WITHOUT A PRESCRIPTION FROM A LICENSED PHYSICIAN, IF THE
17 PHARMACIST FOLLOWS A WRITTEN PROTOCOL DEVELOPED BY THE DEPARTMENT.

18 (B) THE PROTOCOL DEVELOPED UNDER SUBSECTION (A)(1) OF THIS SECTION
19 SHALL:

20 (1) AUTHORIZE THE PHARMACIST TO DISPENSE EMERGENCY
21 CONTRACEPTION TO WOMEN WHO HAVE RECENTLY HAD UNPROTECTED SEXUAL
22 INTERCOURSE OR CONTRACEPTIVE FAILURE, AND WHO WISH TO PREVENT
23 PREGNANCY; AND

24 (2) DEFINE THE MAXIMUM NUMBER OF DAYS AFTER UNPROTECTED
25 SEXUAL INTERCOURSE OR CONTRACEPTIVE FAILURE THAT THE PHARMACIST MAY
26 DISPENSE EMERGENCY CONTRACEPTION.

27 (C) THE PHARMACIST SHALL MAINTAIN A COPY OF THE WRITTEN PROTOCOL
28 IN THE PHARMACIST'S OFFICE FILES.

29 (D) PRIOR TO DISPENSING EMERGENCY CONTRACEPTION, THE PHARMACIST
30 SHALL:

31 (1) SCREEN THE WOMAN FOR APPROPRIATENESS OF EMERGENCY
32 CONTRACEPTION IN ACCORDANCE WITH THE WRITTEN PROTOCOL;

33 (2) PROVIDE THE WOMAN WITH ANY PRINTED MATERIALS AND
34 PACKAGE INSERTS THAT ACCOMPANY THE EMERGENCY CONTRACEPTION;

1 (3) PROVIDE THE WOMAN WITH A STANDARDIZED FACT SHEET THAT
2 INCLUDES:

3 (I) INFORMATION ON:

- 4 1. INDICATIONS FOR USE OF THE DRUG;
- 5 2. APPROPRIATE METHODS FOR USING THE DRUG; AND
- 6 3. THE NEED FOR MEDICAL FOLLOW-UP; AND

7 (II) TO THE EXTENT PRACTICABLE, A LIST, PROVIDED BY THE
8 STATE BOARD OF PHYSICIANS, OF THE NAMES OF THE PRACTICING GYNECOLOGISTS
9 IN THE COUNTY IN WHICH THE WOMAN IS RECEIVING THE EMERGENCY
10 CONTRACEPTION; ~~AND~~

11 (4) PROVIDE THE WOMAN WITH A STANDARDIZED FACT SHEET THAT
12 INCLUDES INFORMATION ON THE RISKS AND EFFECTS OF SEXUALLY TRANSMITTED
13 DISEASES;

14 (5) PROVIDE THE WOMAN WITH A LIST OF THE RAPE CRISIS CENTERS IN
15 THE STATE; AND

16 (6) PROVIDE THE WOMAN WITH THE ADDRESS AND TELEPHONE
17 NUMBER OF:

18 (I) THE MARYLAND COALITION AGAINST SEXUAL ASSAULT; AND

19 (II) THE MARYLAND NETWORK AGAINST DOMESTIC VIOLENCE.

20 (E) (1) THE DEPARTMENT SHALL DEVELOP THE FACT SHEETS REQUIRED
21 UNDER SUBSECTION (D)(3) AND (4) OF THIS SECTION IN CONSULTATION WITH THE
22 STATE BOARD OF PHARMACY, THE AMERICAN COLLEGE OF OBSTETRICIANS AND
23 GYNECOLOGISTS, THE MARYLAND PHARMACISTS ASSOCIATION, AND OTHER HEALTH
24 CARE ORGANIZATIONS.

25 (2) THIS SUBSECTION DOES NOT PRECLUDE THE USE OF EXISTING
26 PUBLICATIONS DEVELOPED BY NATIONALLY RECOGNIZED MEDICAL
27 ORGANIZATIONS.

28 (F) THE PHARMACIST SHALL RECORD THE NUMBER OF WOMEN RECEIVING
29 EMERGENCY CONTRACEPTION FROM THE PHARMACIST, AND SHALL FORWARD
30 THOSE NUMBERS QUARTERLY TO THE DEPARTMENT.

31 (G) (1) THE DEPARTMENT SHALL MODIFY THE PROTOCOL AS NEEDED.

32 (2) THE DEPARTMENT SHALL REVIEW THE PROTOCOL AT LEAST
33 ANNUALLY TO DETERMINE WHETHER MODIFICATIONS ARE APPROPRIATE.

1 13-2308.

2 (A) A CAUSE OF ACTION MAY NOT ARISE AGAINST A LICENSED PHARMACIST
3 CERTIFIED UNDER THIS SUBTITLE FOR ANY ACT OR OMISSION WHEN THE LICENSED
4 PHARMACIST IS ACTING IN GOOD FAITH WHILE DISPENSING EMERGENCY
5 CONTRACEPTION, EXCEPT WHERE THE CONDUCT OF THE CERTIFIED LICENSED
6 PHARMACIST AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON
7 MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.

8 (B) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
9 AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED
10 BY ANY OTHER PROVISIONS OF THE CODE OR BY COMMON LAW TO WHICH A
11 LICENSED PHARMACIST MAY BE ENTITLED.

12 (C) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
13 AFFECTING, THE REQUIREMENTS OF EXISTING LAW RELATING TO MAINTAINING
14 THE CONFIDENTIALITY OF MEDICAL RECORDS.

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

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 2006.