

SENATE BILL 603

J2

2lr0704

By: **Senators Montgomery and Conway**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Practitioners – Licensed Dentists, Physicians, and Podiatrists –**
3 **Personally Preparing and Dispensing Prescription Drugs and Devices**

4 FOR the purpose of requiring certain dentists, physicians, and podiatrists to comply
5 with certain dispensing, labeling, inspection, packaging, recall procedure, record
6 keeping, purchase, verification, reporting, and continuing education
7 requirements as a condition of being allowed to personally prepare and dispense
8 prescription drugs or devices; requiring the State Board of Pharmacy, the State
9 Board of Dental Examiners, the State Board of Physicians, and the State Board
10 of Podiatric Medical Examiners to report certain information to the Division of
11 Drug Control on an annual basis; requiring the Division of Drug Control to
12 enter and inspect certain offices during certain time periods; requiring the
13 Division of Drug Control to report the results of these inspections to certain
14 licensing boards; providing for a certain phase-in of a certain continuing
15 education requirement; and generally relating to the personal preparation and
16 dispensing of prescription drugs or devices by dentists, physicians, and
17 podiatrists.

18 BY repealing and reenacting, with amendments,
19 Article – Health Occupations
20 Section 12–102
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2011 Supplement)

23 BY adding to
24 Article – Health Occupations
25 Section 12–102.1
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health Occupations**

4 12–102.

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

6 (2) “In the public interest” means the dispensing of drugs or devices by
7 a licensed dentist, physician, or podiatrist to a patient when a pharmacy is not
8 conveniently available to the patient.

9 (3) “Personally preparing and dispensing” means that the licensed
10 dentist, physician, or podiatrist:

11 (i) Is physically present on the premises where the prescription
12 is filled; and

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

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

17 (c) This title does not prohibit:

18 (1) A licensed veterinarian from personally preparing and dispensing
19 the veterinarian’s prescriptions;

20 (2) A licensed dentist, physician, or podiatrist from personally
21 preparing and dispensing the dentist’s, physician’s, or podiatrist’s prescriptions when:

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

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

25 2. Has demonstrated to the satisfaction of that board
26 that the dispensing of prescription drugs or devices by the dentist, physician, or
27 podiatrist is in the public interest;

28 3. Has received a written permit from that board to
29 dispense prescription drugs or devices except that a written permit is not required in
30 order to dispense starter dosages or samples without charge; and

1 4. Posts a sign conspicuously positioned and readable
2 regarding the process for resolving incorrectly filled prescriptions or includes written
3 information regarding the process with each prescription dispensed;

4 (ii) The person for whom the drugs or devices are prescribed is a
5 patient of the prescribing dentist, physician, or podiatrist;

6 (iii) The dentist, physician, or podiatrist does not have a
7 substantial financial interest in a pharmacy; and

8 (iv) The dentist, physician, or podiatrist:

9 1. Complies with the **DISPENSING AND** labeling
10 requirements [of § 12–505] of this title;

11 2. Records the dispensing of the prescription drug or
12 device on the patient’s chart;

13 3. Allows the Division of Drug Control to enter and
14 inspect the dentist’s, physician’s, or podiatrist’s office at all reasonable hours **AND IN**
15 **ACCORDANCE WITH § 12–102.1 OF THIS SUBTITLE;**

16 4. **ON INSPECTION BY THE DIVISION OF DRUG**
17 **CONTROL, SIGNS AND DATES AN ACKNOWLEDGMENT FORM PROVIDED BY THE**
18 **DIVISION OF DRUG CONTROL RELATING TO THE REQUIREMENTS OF THIS**
19 **SECTION;**

20 [4.] 5. Except for starter dosages or samples without
21 charge, provides the patient with a written prescription, maintains prescription files
22 in accordance with § 12–403(b)(13) of this title, and maintains a separate file for
23 Schedule II prescriptions;

24 [5.] 6. Does not direct patients to a single pharmacist
25 or pharmacy in accordance with § 12–403(b)(8) of this title; [and]

26 [6.] 7. Does not receive remuneration for referring
27 patients to a pharmacist or pharmacy; [or]

28 8. **COMPLIES WITH THE CHILD RESISTANT**
29 **PACKAGING REQUIREMENTS REGARDING PRESCRIPTION DRUGS UNDER TITLE**
30 **22, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE;**

31 9. **COMPLIES WITH DRUG RECALLS;**

1 **10. MAINTAINS BIENNIAL INVENTORIES AND**
2 **COMPLIES WITH ANY OTHER FEDERAL AND STATE RECORD-KEEPING**
3 **REQUIREMENTS RELATING TO CONTROLLED DANGEROUS SUBSTANCES;**

4 **11. PURCHASES PRESCRIPTION DRUGS OR DEVICES**
5 **FROM A PHARMACY OR WHOLESALE DISTRIBUTOR WHO HOLDS A PERMIT**
6 **ISSUED BY THE BOARD OF PHARMACY, AS VERIFIED BY THE BOARD OF**
7 **PHARMACY;**

8 **12. ANNUALLY REPORTS TO THE RESPECTIVE BOARD**
9 **OF LICENSURE WHETHER THE DENTIST, PHYSICIAN, OR PODIATRIST HAS**
10 **PERSONALLY PREPARED AND DISPENSED PRESCRIPTION DRUGS OR DEVICES**
11 **WITHIN THE PREVIOUS YEAR; AND**

12 **13. COMPLETES TEN CONTINUING EDUCATION**
13 **CREDITS OVER A 5-YEAR PERIOD RELATING TO THE PREPARING AND**
14 **DISPENSING OF PRESCRIPTION DRUGS AND DEVICES, OFFERED BY THE**
15 **ACCREDITATION COUNCIL FOR PHARMACY EDUCATION (ACPE) OR AS**
16 **APPROVED BY THE SECRETARY, AS A CONDITION OF PERMIT RENEWAL; OR**

17 (3) A hospital-based clinic from dispensing prescriptions to its
18 patients.

19 (d) This title does not prohibit:

20 (1) A licensed veterinarian from personally dispensing a drug or
21 device sample to a patient of the veterinarian; or

22 (2) A licensed dentist, licensed physician, or licensed podiatrist from
23 personally dispensing a drug or device sample to a patient of the licensed dentist,
24 licensed physician, or licensed podiatrist if:

25 (i) The sample complies with the labeling requirements of §
26 12-505 of this title;

27 (ii) No charge is made for the sample; and

28 (iii) The authorized prescriber enters an appropriate record in
29 the patient's chart.

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

32 (2) For the purposes of paragraph (1) of this subsection,
33 "administering" means the direct introduction of a single dosage of a drug or device at

1 a given time, whether by injection or other means, and whether in liquid, tablet,
2 capsule, or other form.

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

6 (i) The starter dosage complies with the labeling requirements
7 of § 12–505 of this title;

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

9 (iii) The dentist, physician, or podiatrist enters an appropriate
10 record on the patient’s chart.

11 (2) For the purposes of paragraph (1) of this subsection, “starter
12 dosage” means an amount of drug or device sufficient to begin therapy:

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

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

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

18 (1) At a medical facility or clinic that specializes in the treatment of
19 medical cases reimbursable through workers’ compensation insurance;

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

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

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

25 (h) This title does not limit the right of a general merchant to sell:

26 (1) Any nonprescription drug or device;

27 (2) Any commonly used household or domestic remedy; or

28 (3) Any farm remedy or ingredient for a spraying solution, in bulk or
29 otherwise.

1 **(I) THE BOARD OF PHARMACY, THE BOARD OF DENTAL EXAMINERS,**
 2 **THE BOARD OF PHYSICIANS, AND THE BOARD OF PODIATRIC MEDICAL**
 3 **EXAMINERS ANNUALLY SHALL REPORT TO THE DIVISION OF DRUG CONTROL:**

4 **(1) THE NAMES AND ADDRESSES OF ITS LICENSEES WHO ARE**
 5 **AUTHORIZED TO PERSONALLY PREPARE AND DISPENSE PRESCRIPTION DRUGS**
 6 **AND DEVICES; AND**

7 **(2) THE NAMES AND ADDRESSES OF ITS LICENSEES WHO HAVE**
 8 **REPORTED, IN ACCORDANCE WITH SUBSECTION (C)(2)(IV)12 OF THIS SECTION,**
 9 **THAT THEY HAVE PERSONALLY PREPARED AND DISPENSED PRESCRIPTION**
 10 **DRUGS OR DEVICES WITHIN THE PREVIOUS YEAR.**

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

14 (1) Have the dispensing permit revoked; and

15 (2) Be subject to disciplinary actions by the appropriate licensing
 16 board.

17 **12-102.1.**

18 **(A) THE DIVISION OF DRUG CONTROL SHALL ENTER AND INSPECT THE**
 19 **OFFICE OF A DENTIST, PHYSICIAN, OR PODIATRIST WHO HOLDS:**

20 **(1) AN INITIAL DISPENSING PERMIT:**

21 **(I) WITHIN 6 MONTHS AFTER RECEIVING THE REPORT**
 22 **REQUIRED UNDER § 12-102(I)(1) OF THIS SUBTITLE; AND**

23 **(II) AT LEAST ONE MORE TIME DURING THE DURATION OF**
 24 **THE PERMIT; AND**

25 **(2) A RENEWED DISPENSING PERMIT AT LEAST TWO TIMES**
 26 **DURING THE DURATION OF THE PERMIT.**

27 **(B) THE DIVISION OF DRUG CONTROL PROMPTLY SHALL REPORT THE**
 28 **RESULTS OF THE INSPECTIONS REQUIRED UNDER SUBSECTION (A) OF THIS**
 29 **SECTION TO THE RESPECTIVE BOARD OF LICENSURE.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding §
 31 12-102(c)(2)(iv)13 of the Health Occupations Article, as enacted by Section 1 of this

1 Act, a dentist, physician, or podiatrist who holds a dispensing permit issued by the
2 respective board of licensure shall complete continuing education credits as a condition
3 of permit renewal as follows:

4 (1) if the permit expires in 2013, the dentist, physician, or podiatrist
5 shall complete two continuing education credits as a condition of permit renewal;

6 (2) if the permit expires in 2014, the dentist, physician, or podiatrist
7 shall complete four continuing education credits as a condition of permit renewal;

8 (3) if the permit expires in 2015, the dentist, physician, or podiatrist
9 shall complete six continuing education credits as a condition of permit renewal;

10 (4) if the permit expires in 2016, the dentist, physician, or podiatrist
11 shall complete eight continuing education credits as a condition of permit renewal; and

12 (5) if the permit expires in or after 2017, the dentist, physician, or
13 podiatrist shall complete ten continuing education credits as a condition of permit
14 renewal.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2012.