

HOUSE BILL 783

J2

3lr1905

By: **Delegates Reznik, Barkley, McComas, and B. Robinson**

Introduced and read first time: February 6, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Pharmacy – Jurisdiction over Dentists Who Prepare and**
3 **Dispense Dental Products and Antibiotics**

4 FOR the purpose of altering the jurisdiction of the State Board of Pharmacy to exclude
5 certain dentists who personally prepare and dispense certain prescription
6 strength dental products and certain antibiotics to certain patients under
7 certain circumstances; requiring certain dentists to enter a record on a certain
8 patient's chart under certain circumstances; and generally relating to the
9 jurisdiction of the State Board of Pharmacy.

10 BY repealing and reenacting, with amendments,
11 Article – Health Occupations
12 Section 12–102
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2012 Supplement)

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

17 **Article – Health Occupations**

18 12–102.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (i) Is physically present on the premises where the prescription
4 is filled; and

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

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

9 (c) This title does not prohibit:

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

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

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

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

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

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

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

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

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

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

31 1. Complies with the labeling requirements of § 12–505
32 of this title;

1 2. Records the dispensing of the prescription drug or
2 device on the patient's chart;

3 3. Allows the Division of Drug Control to enter and
4 inspect the dentist's, physician's, or podiatrist's office at all reasonable hours;

5 4. Except for starter dosages or samples without charge,
6 provides the patient with a written prescription, maintains prescription files in
7 accordance with § 12-403(b)(13) of this title, and maintains a separate file for
8 Schedule II prescriptions;

9 5. Does not direct patients to a single pharmacist or
10 pharmacy in accordance with § 12-403(b)(8) of this title; and

11 6. Does not receive remuneration for referring patients
12 to a pharmacist or pharmacy; or

13 (3) A hospital-based clinic from dispensing prescriptions to its
14 patients.

15 (d) This title does not prohibit:

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

18 (2) A licensed dentist, licensed physician, or licensed podiatrist from
19 personally dispensing a drug or device sample to a patient of the licensed dentist,
20 licensed physician, or licensed podiatrist if:

21 (i) The sample complies with the labeling requirements of §
22 12-505 of this title;

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

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

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

28 (2) For the purposes of paragraph (1) of this subsection,
29 "administering" means the direct introduction of a single dosage of a drug or device at
30 a given time, whether by injection or other means, and whether in liquid, tablet,
31 capsule, or other form.

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

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

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

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

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

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

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

14 **(G) (1) THIS TITLE DOES NOT PROHIBIT A LICENSED DENTIST FROM**
15 **PERSONALLY PREPARING AND DISPENSING:**

16 **(I) A PRESCRIPTION–STRENGTH:**

17 **1. HOME FLUORIDE PRODUCT;**

18 **2. DENTIN/ENAMEL REMINERALIZING PRODUCT; OR**

19 **3. ANTIMICROBIAL RINSE; OR**

20 **(II) A FULL COURSE TREATMENT OF ANTIBIOTICS FOR**
21 **INFECTION CONTROL TO A PATIENT WHO IS RECEIVING THE DENTAL CARE PRO**
22 **BONO IF THERE IS NO CHARGE FOR THE ANTIBIOTICS.**

23 **(2) A DENTIST WHO DISPENSES A PRODUCT OR DRUG UNDER**
24 **PARAGRAPH (1) OF THIS SUBSECTION SHALL ENTER AN APPROPRIATE RECORD**
25 **ON THE PATIENT’S CHART.**

26 **[(g)] (H)** This title does not prohibit a dentist, physician, or podiatrist from
27 dispensing a prescription drug or device in the course of treating a patient:

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

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

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

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

6 **[(h)] (I)** This title does not limit the right of a general merchant to sell:

7 (1) Any nonprescription drug or device;

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

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

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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2013.