

# SENATE BILL 848

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By: **Senator Kagan**

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Physician Assistants – Dispensing Authority**

3 FOR the purpose of providing that the Maryland Dentistry Act does not prohibit a physician  
4 assistant from personally preparing and dispensing certain prescriptions, personally  
5 dispensing certain samples and starter dosages, or administering and prescribing  
6 certain drugs and devices under certain circumstances; requiring that a physician  
7 assistant who fails to comply with specified provisions of law have a dispensing  
8 permit revoked and be subject to certain disciplinary actions; authorizing a physician  
9 assistant to personally prepare and dispense any drug that the physician assistant  
10 may prescribe to the extent permitted by law in the course of treating a patient at  
11 certain facilities, clinics, health centers, and hospitals; requiring a physician  
12 assistant who personally dispenses a drug under certain circumstances to comply  
13 with certain requirements; altering certain definitions; making a clarifying change;  
14 and generally relating to the dispensing authority of a physician assistant.

15 BY repealing and reenacting, with amendments,  
16 Article – Health Occupations  
17 Section 12–102(a), (c) through (g), and (m) and 15–302.2  
18 Annotated Code of Maryland  
19 (2014 Replacement Volume and 2016 Supplement)

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

22 **Article – Health Occupations**

23 12–102.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2)    “In the public interest” means the dispensing of drugs or devices by a  
2 licensed dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist to a patient when a  
3 pharmacy is not conveniently available to the patient.

4           (3)    “Personally preparing and dispensing” means that the licensed dentist,  
5 physician, **PHYSICIAN ASSISTANT**, or podiatrist:

6                   (i)    Is physically present on the premises where the prescription is  
7 filled; and

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

10          (c)    (1)   This subsection does not apply to a licensed dentist who obtains a  
11 permit from the State Board of Dental Examiners under subsection (h) of this section.

12          (2)    This title does not prohibit:

13                   (i)    A licensed veterinarian from:

14                           1.    Personally preparing and dispensing the veterinarian’s  
15 prescriptions; or

16                           2.    Dispensing, in accordance with § 2–313(c) of the  
17 Agriculture Article, compounded nonsterile preparations or compounded sterile  
18 preparations provided by a pharmacy;

19                   (ii)   A licensed dentist, physician, **PHYSICIAN ASSISTANT**, or  
20 podiatrist from personally preparing and dispensing the dentist’s, physician’s, **PHYSICIAN**  
21 **ASSISTANT’S**, or podiatrist’s prescriptions when:

22                           1.    The dentist, physician, **PHYSICIAN ASSISTANT**, or  
23 podiatrist:

24                                   A.    Has applied to the board of licensure in this State which  
25 licensed the dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist;

26                                   B.    Has demonstrated to the satisfaction of that board that the  
27 dispensing of prescription drugs or devices by the dentist, physician, **PHYSICIAN**  
28 **ASSISTANT**, or podiatrist is in the public interest;

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

1 D. 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 2. The person for whom the drugs or devices are prescribed  
5 is a patient of the prescribing dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist;

6 3. The dentist, physician, **PHYSICIAN ASSISTANT**, or  
7 podiatrist does not have a substantial financial interest in a pharmacy; and

8 4. The dentist, physician, **PHYSICIAN ASSISTANT**, or  
9 podiatrist:

10 A. Complies with the dispensing and labeling requirements  
11 of this title;

12 B. Records the dispensing of the prescription drug or device  
13 on the patient's chart;

14 C. Allows the Division of Drug Control to enter and inspect  
15 the dentist's, physician's, **PHYSICIAN ASSISTANT'S**, or podiatrist's office at all reasonable  
16 hours and in accordance with § 12-102.1 of this subtitle;

17 D. On inspection by the Division of Drug Control, signs and  
18 dates an acknowledgment form provided by the Division of Drug Control relating to the  
19 requirements of this section;

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

23 F. Does not direct patients to a single pharmacist or  
24 pharmacy in accordance with § 12-403(c)(8) of this title;

25 G. Does not receive remuneration for referring patients to a  
26 pharmacist or pharmacy;

27 H. Complies with the child resistant packaging requirements  
28 regarding prescription drugs under Title 22, Subtitle 3 of the Health – General Article;

29 I. Complies with drug recalls;

30 J. Maintains biennial inventories and complies with any  
31 other federal and State record-keeping requirements relating to controlled dangerous  
32 substances;

1 K. Purchases prescription drugs from a pharmacy or  
2 wholesale distributor who holds a permit issued by the Board of Pharmacy, as verified by  
3 the Board of Pharmacy;

4 L. Annually reports to the respective board of licensure  
5 whether the dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist has personally  
6 prepared and dispensed prescription drugs within the previous year; and

7 M. Completes ten continuing education credits over a 5-year  
8 period relating to the preparing and dispensing of prescription drugs, offered by the  
9 Accreditation Council for Pharmacy Education (ACPE) or as approved by the Secretary, in  
10 consultation with each respective board of licensure, as a condition of permit renewal;

11 (iii) A licensed physician who complies with the requirements of item  
12 (ii) of this paragraph from personally preparing and dispensing a prescription written by:

13 1. A physician assistant in accordance with a delegation  
14 agreement that complies with Title 15, Subtitle 3 of this article; or

15 2. A nurse practitioner who is authorized to practice under  
16 Title 8, Subtitle 3 of this article and is working with the physician in the same office setting;  
17 or

18 (iv) A hospital-based clinic from dispensing prescriptions to its  
19 patients.

20 (d) This title does not prohibit:

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

23 (2) A licensed dentist, licensed physician, **LICENSED PHYSICIAN**  
24 **ASSISTANT**, or licensed podiatrist from personally dispensing a drug or device sample to a  
25 patient of the licensed dentist, licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or  
26 licensed podiatrist if:

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

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

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

1 (e) (1) This title does not prohibit a dentist, physician, **PHYSICIAN**  
2 **ASSISTANT**, or podiatrist from administering a prescription drug or device in the course of  
3 treating a patient.

4 (2) For the purposes of paragraph (1) of this subsection, “administering”  
5 means the direct introduction of a single dosage of a drug or device at a given time, whether  
6 by injection or other means, and whether in liquid, tablet, capsule, or other form.

7 (f) (1) This title does not prohibit a dentist, physician, **PHYSICIAN**  
8 **ASSISTANT**, or podiatrist from personally dispensing a starter dosage of a prescription drug  
9 or device to a patient of the dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist,  
10 provided that:

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

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

14 (iii) The dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist  
15 enters an appropriate record on the patient’s chart.

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

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

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

21 (g) This title does not prohibit a dentist, physician, **PHYSICIAN ASSISTANT**, or  
22 podiatrist from dispensing a prescription drug or device in the course of treating a patient:

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

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

26 (3) At a public health facility, a medical facility under contract with a State  
27 or local health department, or a facility funded with public funds.

28 (m) A dentist, physician, **PHYSICIAN ASSISTANT**, or podiatrist who fails to  
29 comply with the provisions of this section governing the dispensing of prescription drugs or  
30 devices shall:

31 (1) Have the dispensing permit revoked; and

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

2 15–302.2.

3 (a) A primary supervising physician may not delegate prescribing, dispensing,  
4 and administering of controlled dangerous substances, prescription drugs, or medical  
5 devices unless the primary supervising physician and physician assistant include in the  
6 delegation agreement:

7 (1) A notice of intent to delegate prescribing of controlled dangerous  
8 substances, prescription drugs, or medical devices;

9 (2) An attestation that all prescribing activities of the physician assistant  
10 will comply with applicable federal and State regulations;

11 (3) An attestation that all medical charts or records will contain a notation  
12 of any prescriptions written by a physician assistant in accordance with this section;

13 (4) An attestation that all prescriptions written under this section will  
14 include the physician assistant's name and the supervising physician's name, business  
15 address, and business telephone number legibly written or printed;

16 (5) An attestation that the physician assistant has:

17 (i) Passed the physician assistant national certification exam  
18 administered by the National Commission on the Certification of Physician Assistants  
19 within the previous 2 years; or

20 (ii) Successfully completed 8 category 1 hours of pharmacology  
21 education within the previous 2 years; and

22 (6) An attestation that the physician assistant has:

23 (i) A bachelor's degree or its equivalent; or

24 (ii) Successfully completed 2 years of work experience as a physician  
25 assistant.

26 (b) (1) A primary supervising physician may not delegate the prescribing of  
27 substances that are identified as Schedule I controlled dangerous substances under §  
28 5–402 of the Criminal Law Article.

29 (2) A primary supervising physician may delegate the prescribing of  
30 substances that are identified as Schedules II through V controlled dangerous substances  
31 under § 5–402 of the Criminal Law Article, including legend drugs as defined under § 503(b)  
32 of the Federal Food, Drug, and Cosmetic Act.

1           (3) A primary supervising physician may not delegate the prescribing of  
2 controlled dangerous substances to a physician assistant unless the physician assistant has  
3 a valid:

4                   (i) State controlled dangerous substance registration; and

5                   (ii) Federal Drug Enforcement Agency (DEA) registration.

6           (c) A physician assistant personally may dispense a starter dosage or dispense  
7 drug samples of any drug the physician assistant is authorized to prescribe to a patient of  
8 the physician assistant if:

9                   (1) The starter dosage or drug sample complies with the labeling  
10 requirements of § 12-505 of this article;

11                   (2) No charge is made for the starter dosage; [and]

12                   (3) The physician assistant enters an appropriate record in the patient's  
13 medical record; AND

14                   **(4) THE PHYSICIAN ASSISTANT COMPLIES WITH THE REQUIREMENTS**  
15 **UNDER TITLES 12 AND 14 OF THIS ARTICLE AND APPLICABLE FEDERAL LAW AND**  
16 **REGULATIONS.**

17           **(D) IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (E) OF THIS**  
18 **SECTION, A PHYSICIAN ASSISTANT MAY PERSONALLY PREPARE AND DISPENSE ANY**  
19 **DRUG THAT THE PHYSICIAN ASSISTANT MAY PRESCRIBE TO THE EXTENT**  
20 **PERMITTED BY LAW IN THE COURSE OF TREATING A PATIENT AT:**

21                   **(1) A MEDICAL FACILITY OR CLINIC THAT SPECIALIZES IN THE**  
22 **TREATMENT OF MEDICAL CASES REIMBURSABLE THROUGH WORKERS'**  
23 **COMPENSATION INSURANCE;**

24                   **(2) A MEDICAL FACILITY OR CLINIC THAT IS OPERATED ON A**  
25 **NONPROFIT BASIS;**

26                   **(3) A HEALTH CENTER THAT OPERATES ON A CAMPUS OF AN**  
27 **INSTITUTION OF HIGHER EDUCATION;**

28                   **(4) A PUBLIC HEALTH FACILITY, A MEDICAL FACILITY UNDER**  
29 **CONTRACT WITH A STATE OR LOCAL HEALTH DEPARTMENT, OR A FACILITY FUNDED**  
30 **WITH PUBLIC FUNDS; OR**

1                   **(5) A NONPROFIT HOSPITAL OR A NONPROFIT HOSPITAL**  
2 **OUTPATIENT FACILITY AS AUTHORIZED UNDER THE POLICIES ESTABLISHED BY THE**  
3 **HOSPITAL.**

4           [(d)] **(E)** A physician assistant who personally dispenses a drug [sample or  
5 starter dosage] in the course of treating a patient as authorized under subsection [(c)] **(D)**  
6 of this section shall comply with the requirements under Titles 12 and 14 of this article and  
7 applicable federal law and regulations.

8           [(e)] **(F)** Before a physician assistant may renew a license for an additional  
9 2-year term under § 15-307 of this subtitle, the physician assistant shall submit evidence  
10 to the Board of successful completion of 8 category 1 hours of pharmacology education  
11 within the previous 2 years.

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2017.