

# HOUSE BILL 693

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EMERGENCY BILL

3lr1518  
CF SB 647

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By: ~~Delegate Kipke~~ Delegates Kipke, Alston, Bagnall, Bhandari, Cullison, Guzzone, Hill, S. Johnson, Kaiser, Kerr, R. Lewis, Lopez, Martinez, Pena-Melnyk, Rosenberg, Taveras, White, and Woods

Introduced and read first time: February 6, 2023  
Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 5, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Pharmacy – Board Membership ~~and~~ Delegated Pharmacy Acts,**  
3 **and Sunset Extension**

4 FOR the purpose of altering the membership of the State Board of Pharmacy to include a  
5 registered pharmacy technician; authorizing a licensed pharmacist, under certain  
6 circumstances, to delegate ~~pharmacy acts~~ the entry of certain data into databases or  
7 patient charts to be performed at a remote location to a registered pharmacy  
8 technician and a registered pharmacy intern; ~~repealing the prohibition on a~~  
9 ~~registered pharmacy technician administering influenza vaccines;~~ prohibiting  
10 registered pharmacy technicians and pharmacy technician trainees from making  
11 decisions that require the professional judgment of a pharmacist; prohibiting a  
12 registered pharmacy technician from administering a vaccination except under  
13 certain circumstances; continuing the Board in accordance with the provisions of the  
14 Maryland Program Evaluation Act (sunset law) by extending to a certain date the  
15 termination provisions relating to certain statutory and regulatory authority of the  
16 Board; and generally relating to the State Board of Pharmacy.

17 BY repealing and reenacting, without amendments,  
18 Article – Health Occupations  
19 Section 12–101(a) and 12–307(d)  
20 Annotated Code of Maryland  
21 (2021 Replacement Volume and 2022 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – Health Occupations  
 3 Section 12–101(g), 12–202(a) and (b), 12–6B–06, and 12–802  
 4 Annotated Code of Maryland  
 5 (2021 Replacement Volume and 2022 Supplement)

6 BY adding to  
 7 Article – Health Occupations  
 8 Section 12–307(e)  
 9 Annotated Code of Maryland  
 10 (2021 Replacement Volume and 2022 Supplement)

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

13 **Article – Health Occupations**

14 12–101.

15 (a) In this title the following words have the meanings indicated.

16 (g) (1) “Delegated pharmacy act” means an activity that constitutes the  
 17 practice of pharmacy delegated by a licensed pharmacist under this title and regulations  
 18 adopted by the Board.

19 (2) “Delegated pharmacy act” does not include:

20 (i) An act within the parameters of a therapy management contract  
 21 as provided under Subtitle 6A of this title;

22 ~~[(ii) The~~ **EXCEPT AS PROVIDED IN § 12–6B–06 OF THIS TITLE,**  
 23 **THE** administration of ~~an influenza A~~ vaccination in accordance with § 12–508 of this title;~~]~~

24 ~~[(iii)]~~ ~~(iii)~~ The delegation of a pharmacy act by a registered  
 25 pharmacy technician, pharmacy student, or pharmacy technician trainee;

26 ~~[(iv)]~~ ~~(iii)~~ A pharmacy activity performed by a pharmacy student in  
 27 accordance with § 12–301(b) of this title;

28 ~~[(v)]~~ ~~(iv)~~ A pharmacy activity performed by an applicant for a  
 29 license to practice pharmacy in accordance with regulations adopted by the Board; ~~[or]~~

30 ~~(v)~~ **(VI) A DECISION-MAKING TASK THAT REQUIRES THE**  
 31 **PROFESSIONAL JUDGMENT OF A PHARMACIST; AND**

1                   ~~(vi)~~ **(VII)** The performance of other functions prohibited in  
2 regulations adopted by the Board.

3 12-202.

4           (a)   (1)   The Board consists of [twelve] **13** members.

5                   (2)   Of the [twelve] **13** Board members:

6                           (i)   Ten shall be licensed pharmacists, including:

7                                   1.   Two who at the time of appointment practice primarily in  
8 chain store pharmacies;

9                                   2.   Two who at the time of appointment practice primarily in  
10 independent pharmacies;

11                                  3.   Two who at the time of appointment practice primarily in  
12 an acute-care hospital;

13                                  4.   One who at the time of appointment practices primarily in  
14 a pharmacy that provides services to a long-term care facility;

15                                  5.   One who at the time of appointment practices primarily in  
16 a pharmacy that specializes in the provision of home infusion/home care services; and

17                                  6.   Two pharmacists at-large; [and]

18                           **(II) ONE SHALL BE A REGISTERED PHARMACY TECHNICIAN;**

19 **AND**

20                           ~~(ii)~~ **(III)** Two shall be consumer members.

21                   (3)   (i)   The Governor shall appoint the chain store pharmacist members,  
22 with the advice of the Secretary, from a list of names submitted to the Secretary and the  
23 Governor by the Maryland Association of Chain Drug Stores.

24                           (ii)   The Governor shall appoint the independent pharmacist  
25 members, with the advice of the Secretary, from a list of names submitted to the Secretary  
26 and the Governor by the Maryland Pharmacists Association and the Maryland  
27 Pharmaceutical Society.

28                           (iii)   The Governor shall appoint the acute-care hospital pharmacist  
29 members, with the advice of the Secretary, from a list of names submitted to the Secretary  
30 and the Governor by the Maryland Society of Health-System Pharmacists.

1 (iv) The Governor shall appoint the long-term care facility  
2 pharmacist member, with the advice of the Secretary, from a list of names submitted to the  
3 Secretary and the Governor by the Maryland Chapter of the American Society of  
4 Consultant Pharmacists.

5 (v) The Governor shall appoint the home infusion/home care  
6 pharmacist member, with the advice of the Secretary, from a list of names submitted to the  
7 Secretary and the Governor by the Maryland Society of Health-System Pharmacists.

8 (vi) The Governor shall appoint the at-large pharmacist members,  
9 with the advice of the Secretary, from a list of all names submitted to the Maryland  
10 Pharmacists Association, and then forwarded to the Secretary and the Governor.

11 **(VII) THE GOVERNOR SHALL APPOINT THE REGISTERED**  
12 **PHARMACY TECHNICIAN MEMBER, WITH THE ADVICE OF THE SECRETARY, FROM A**  
13 **LIST OF ALL NAMES SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY THE**  
14 **MARYLAND SOCIETY OF HEALTH-SYSTEM PHARMACISTS AND THE MARYLAND**  
15 **PHARMACISTS ASSOCIATION.**

16 [(vii)] **(VIII)** Except for the at-large vacancies, the number of names on  
17 each list submitted to the Secretary and the Governor under this paragraph shall be three  
18 times the number of vacancies.

19 (4) For each pharmacist vacancy **AND EACH REGISTERED PHARMACY**  
20 **TECHNICIAN VACANCY:**

21 (i) The Board shall notify all licensed pharmacists, **REGISTERED**  
22 **PHARMACY TECHNICIANS**, and other interested parties of record in the State of the  
23 vacancy to solicit nominations to fill the vacancy and provide information for contacting a  
24 representative of the group that submits the list of names to the Governor under paragraph  
25 (3) of this subsection; and

26 (ii) Except for the at-large vacancies, each association that is  
27 responsible for submitting a list of nominees to the Secretary and the Governor under this  
28 section shall:

29 1. Issue a nomination form upon the request of any licensed  
30 pharmacist and consider all nominations received by the association's deadline;

31 2. Form a committee, which recognizes diversity within the  
32 State in geographic distribution, sex, race, and age, comprised of at least five pharmacists  
33 to review nominations, interview all qualified nominees in a meeting open to the public,  
34 and select three names for each vacancy to be submitted to the Secretary and the Governor;  
35 and

1                   3.     In the event that fewer than three qualified nominees are  
2 submitted to the association, select any additional names that are needed to complete the  
3 list required to be submitted to the Secretary and the Governor under this section.

4                   (5)    The Governor shall appoint the consumer members with the advice of  
5 the Secretary and the advice and consent of the Senate.

6                   (6)    Each member of the Board shall be a resident of this State.

7                   (7)    A member of the Board shall be recused from all aspects of the licensing  
8 exam if that Board member:

9                   (i)     Is a member of the board of trustees at a school of pharmacy;

10                  (ii)    Is a teacher at a school of pharmacy; or

11                  (iii)   Acquires the member's primary source of income through  
12 employment by a school of pharmacy.

13                  (b)    Each pharmacist member **AND EACH REGISTERED PHARMACY**  
14 **TECHNICIAN MEMBER** of the Board shall:

15                  (1)    Be skilled and competent in practicing pharmacy; and

16                  (2)    Have at least 5 years of active pharmacy practice.

17 12-307.

18                  (d)    A licensed pharmacist may delegate pharmacy acts to a registered pharmacy  
19 technician, pharmacy student, or pharmacy technician trainee ~~provided that~~ **ONLY IF** the  
20 delegated pharmacy acts:

21                  (1)    Are directly supervised by a licensed pharmacist;

22                  (2)    Are not required to be performed by a licensed pharmacist;

23                  (3)    Are within the education, training, experience, and area of practice of  
24 the delegating licensed pharmacist; and

25                  (4)    Are appropriate to the education, training, and experience of the  
26 registered pharmacy technician, pharmacy student, or pharmacy technician trainee.

27                  **(E) A LICENSED PHARMACIST MAY DELEGATE PHARMACY ACTS, INCLUDING**  
28 **THE ENTERING ENTRY OF PRESCRIPTION-RELATED DATA INTO DATABASES OR**  
29 **PATIENT CHARTS, TO BE PERFORMED AT A REMOTE LOCATION TO A REGISTERED**

1 PHARMACY TECHNICIAN OR A REGISTERED PHARMACY INTERN ~~PROVIDED THAT~~  
 2 ~~THE DELEGATED PHARMACY ACTS IF:~~

3 ~~(1) ARE SUPERVISED BY A LICENSED PHARMACIST;~~

4 (1) THE REGISTERED PHARMACY TECHNICIAN OR REGISTERED  
 5 PHARMACY INTERN HAS IMMEDIATE ELECTRONIC ACCESS TO A PHARMACIST WHO  
 6 CAN PROVIDE ASSISTANCE AS NEEDED; AND

7 (2) THE DATA ENTRY:

8 ~~(2) (I) ARE IS~~ NOT REQUIRED TO BE PERFORMED BY A LICENSED  
 9 PHARMACIST;

10 ~~(3) DO NOT INVOLVE THE COMPOUNDING, DISTRIBUTION, OR~~  
 11 ~~DISPENSING OF PRESCRIPTION OR NONPRESCRIPTION DRUGS;~~

12 ~~(4) (II) ARE IS~~ WITHIN THE EDUCATION, TRAINING, EXPERIENCE,  
 13 AND AREA OF PRACTICE OF THE DELEGATING LICENSED PHARMACIST;

14 ~~(5) (III) ARE IS~~ APPROPRIATE TO THE EDUCATION, TRAINING, AND  
 15 EXPERIENCE OF THE REGISTERED PHARMACY TECHNICIAN OR THE REGISTERED  
 16 PHARMACY INTERN; AND

17 ~~(6) (IV) IF THE DELEGATED ACT~~ DATA ENTRY INVOLVES ACCESS TO  
 18 PROTECTED PATIENT INFORMATION UNDER THE FEDERAL HEALTH INSURANCE  
 19 PORTABILITY AND ACCOUNTABILITY ACT OF 1996, CAN BE PERFORMED IN A  
 20 MANNER THAT MAINTAINS THE CONFIDENTIALITY OF PATIENT INFORMATION.

21 12-6B-06.

22 (a) Registration authorizes a registered [pharmacist] PHARMACY technician to  
 23 perform delegated pharmacy acts as defined in § 12-101 of this title while the registration  
 24 is effective.

25 (b) A registered pharmacy technician or a pharmacy technician trainee may not:

26 (1) Act within the parameters of a therapy management contract as  
 27 provided under Subtitle 6A of this title;

28 (2) [Administer an influenza vaccination in accordance with § 12-508 of  
 29 this title] **MAKE DECISIONS THAT REQUIRE THE PROFESSIONAL JUDGMENT OF A**  
 30 **PHARMACIST;**

1 (3) Delegate a pharmacy act that was delegated to the registered pharmacy  
2 technician or individual engaging in a Board approved technician training program; or

3 (4) Perform other functions prohibited by regulations adopted by the  
4 Board.

5 (C) (1) A REGISTERED PHARMACY TECHNICIAN MAY ADMINISTER AN  
6 INFLUENZA VACCINATION IN ACCORDANCE WITH § 12-508 OF THIS TITLE TO AN  
7 INDIVIDUAL AT LEAST 18 YEARS OLD.

8 (2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A  
9 REGISTERED PHARMACY TECHNICIAN MAY NOT ADMINISTER A VACCINATION IN  
10 ACCORDANCE WITH § 12-508 OF THIS TITLE.

11 (D) A PHARMACY TECHNICIAN TRAINEE MAY NOT ADMINISTER A  
12 VACCINATION IN ACCORDANCE WITH § 12-508 OF THIS TITLE.

13 12-802.

14 Subject to the evaluation and reestablishment provisions of the Program Evaluation  
15 Act, this title and all rules and regulations adopted under this title shall terminate and be  
16 of no effect after July 1, [2023] 2033.

17 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~  
18 ~~October 1, 2023.~~

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
20 measure, is necessary for the immediate preservation of the public health or safety, has  
21 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
22 each of the two Houses of the General Assembly, and shall take effect from the date it is  
23 enacted.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.