

Chapter 933

(House Bill 1171)

AN ACT concerning

**Nonprescription Drugs and Devices – Provision by Registered Nurses and Sale
of Contraceptives Through Automatic Devices**

FOR the purpose of prohibiting the sale of natural membrane condoms, rather than all nonlatex condoms, through a vending machine or other automatic device; repealing the prohibition on a criminal penalty related to the sale of certain contraceptives by means of a vending machine or other automatic device; excluding the violation of a certain provision of this Act from certain penalties; authorizing registered nurses to provide, without a prescription, nonprescription drugs and devices in a local health department under certain circumstances; and generally relating to nonprescription drugs and devices.

BY repealing

Article – Criminal Law

Section 10-104 ~~and 10-105~~

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 3-403(a)(1)

Annotated Code of Maryland

(2023 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 3-403(b) *and 21-1215*

Annotated Code of Maryland

(2023 Replacement Volume)

BY adding toArticle – Health – GeneralSection 21-228Annotated Code of Maryland(2023 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8-512

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

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

Article – Criminal Law

[10–104.

(a) A person may not sell or offer for sale a nonlatex condom by means of a vending machine or other automatic device.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for each violation.

(2) Each vending machine or other automatic device in violation of this section is a separate violation.]

~~[10–105.~~

~~(a) A person may not sell or offer for sale a contraceptive or a contraceptive device, whether or not advertised as a prophylactic, by means of a vending machine or other automatic device at a kindergarden, nursery school, or elementary or secondary school.~~

~~(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for each violation.~~

~~(2) Each vending machine or other automatic device in a school is a separate violation.]~~

Article – Health – General

3–403.

(a) (1) There is a Committee on Registered Nurses Personally Preparing and Dispensing Drugs and Devices in Local Health Departments.

(b) The Committee shall:

(1) Develop and approve a formulary for use by registered nurses **THAT INCLUDES ALL NONPRESCRIPTION CONTRACEPTIVE DRUGS AND DEVICES APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR OVER-THE-COUNTER USE**; and

(2) Annually review the formulary to ensure compliance with current prescribing standards.

21-228.

A PERSON MAY NOT SELL OR OFFER FOR SALE A NATURAL MEMBRANE CONDOM BY MEANS OF A VENDING MACHINE OR OTHER AUTOMATIC DEVICE.

21-1215.

(a) This section does not apply to a violation of § 21-220(b)(4), § 21-228, or § 21-259.2 of this title.

(b) A person who violates any provision of Subtitle 2 of this title or any regulation adopted under Subtitle 2 of this title is guilty of a misdemeanor and on conviction is subject to:

(1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both; or

(2) If the person has been convicted once of violating Subtitle 2 of this title, a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.

(c) In addition to any criminal penalties imposed under this section, a person who violates any provision of Subtitle 2 of this title, any rule or regulation adopted under Subtitle 2 of this title, or any term, condition, or limitation of any license or registration issued under Subtitle 2 of this title:

(1) Is subject to a civil penalty not exceeding \$5,000, in an action in any District Court; and

(2) May be enjoined from continuing the violation.

(d) Each day on which a violation occurs is a separate violation under this section.

Article – Health Occupations

8-512.

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

(2) “Authorized prescriber” means a licensed registered nurse, licensed dentist, licensed physician, licensed physician’s assistant, licensed podiatrist, or other individual authorized by law to prescribe prescription or nonprescription drugs or devices.

(3) (i) “Device” means an item used in the diagnosis, treatment, or prevention of disease.

(ii) “Device” does not include:

1. Surgical or dental instruments;
2. Physical therapy equipment;
3. X-ray apparatuses; or
4. Component parts of or accessories for any of the items described in items 1 through 3 of this subparagraph.

(4) (i) “Dispense” means a procedure that results in the receipt of a drug or device by a patient or a patient’s agent.

(ii) “Dispense” includes:

1. Interpreting an authorized prescriber’s prescription for a drug or device;
2. Selecting and labeling the drug or device prescribed;
3. Measuring and packaging the drug or device in accordance with State and federal law; and
4. Documenting the transaction in the patient’s medical record.

(5) “Drug” means, unless the context requires otherwise, a prescription or nonprescription drug.

(6) “Formulary” means a list of drugs and devices.

(7) “Nonprescription drug **OR DEVICE**” means a drug **OR DEVICE** that:

- (i) May be sold without a prescription; and
- (ii) Is labeled for use by a consumer in accordance with State and federal law.

(8) “Personally prepare and dispense” means to:

- (i) Physically prepare a prescription;
- (ii) Perform a final check of the prescription before dispensing it to a patient; and

(iii) Not delegate any step of the dispensing process.

(9) “Prescription drug” means a drug that, under § 21–220 of the Health – General Article, may be dispensed only on the prescription of an authorized prescriber.

(b) If a registered nurse complies with the requirements of this section, the registered nurse may personally prepare and dispense drugs and devices **OR PROVIDE, WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES** in a local health department:

(1) In accordance with the Overdose Response Program under Title 13, Subtitle 31 of the Health – General Article or the Expedited Partner Therapy Pilot Program under § 18–214.1 of the Health – General Article; or

(2) To patients in need of communicable disease, alcohol and drug abuse, family planning, or reproductive health services.

(c) A registered nurse may personally prepare and dispense drugs and devices **OR PROVIDE, WITHOUT A PRESCRIPTION, NONPRESCRIPTION DRUGS AND DEVICES** if the registered nurse:

(1) Complies with the formulary developed and approved under § 3–403(b) of the Health – General Article;

(2) Has successfully completed a training program administered by the Department in accordance with § 3–405 of the Health – General Article;

(3) Maintains the patient’s health record in a manner that ensures the confidentiality of the patient’s drug and device medication record in accordance with State and federal laws;

(4) Complies with drug and device storage and inventory procedures in accordance with Department policy; and

(5) **[Has] FOR A PRESCRIPTION DRUG OR DEVICE, HAS** received a prescription from an authorized prescriber employed at a local health department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 16, 2024.