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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - PHARMACIES

Introduced By: Representatives Serpa, Fellela, and Silva

Date Introduced: January 30, 2014

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-19.1-2 of the General Laws in Chapter 5-19.1 entitled
2 "Pharmacies" is hereby amended to read as follows:

3 **5-19.1-2. Definitions.** -- (a) "Board" means the Rhode Island board of pharmacy.

4 (b) "Change of ownership" means:

5 (1) In the case of a pharmacy, manufacturer, or wholesaler, which is a partnership, any
6 change which results in a new partner acquiring a controlling interest in the partnership;

7 (2) In the case of a pharmacy, manufacturer or wholesaler which is a sole proprietorship,
8 the transfer of the title and property to another person;

9 (3) In the case of a pharmacy, manufacturer, or wholesaler which is a corporation:

10 (i) A sale, lease exchange, or other disposition of all or substantially all of the property
11 and assets of the corporation; or

12 (ii) A merger of the corporation into another corporation; or

13 (iii) The consolidation of two (2) or more corporations, resulting in the creation of a new
14 corporation; or

15 (iv) In the case of a pharmacy, manufacturer, or wholesaler which is a business
16 corporation, any transfer of corporate stock which results in a new person acquiring a controlling
17 interest in the corporation; or

18 (v) In the case of a pharmacy, manufacturer, or wholesaler which is a non-business
19 corporation, any change in membership, which results in a new person acquiring a controlling

1 vote in the corporation.

2 (c) "Compounding" means the act of combining two (2) or more ingredients as a result
3 of a practitioner's prescription or medication order occurring in the course of professional practice
4 based upon the individual needs of a patient and a relationship between the practitioner, patient,
5 and pharmacist. Compounding does not mean the routine preparation, mixing or assembling of
6 drug products that are essentially copies of a commercially available product. Compounding shall
7 only occur in the pharmacy where the drug or device is dispensed to the patient or caregiver and
8 includes the preparation of drugs or devices in anticipation of prescription orders based upon
9 routine, regularly observed prescribing patterns.

10 (d) "Controlled substance" means a drug or substance, or an immediate precursor of such
11 drug or substance, so designated under or pursuant to the provisions of chapter 28 of title 21.

12 (e) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one
13 person to another of a drug or device, whether or not there is an agency relationship.

14 (f) "Device" means instruments, apparatus, and contrivances, including their
15 components, parts, and accessories, intended:

16 (1) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man
17 or other animals; or

18 (2) To affect the structure or any function of the body of man or other animals.

19 (g) "Director" means the director of the Rhode Island state department of health.

20 (h) "Dispense" means the interpretation of a prescription or order for a drug, biological,
21 or device and, pursuant to that prescription or order, the proper selection, measuring,
22 compounding, labeling, or packaging necessary to prepare that prescription or order for delivery
23 or administration.

24 (i) "Distribute" means the delivery of a drug or device other than by administering or
25 dispensing.

26 (j) "Drug" means:

27 (1) Articles recognized in the official United States Pharmacopoeia or the Official
28 Homeopathic Pharmacopoeia of the U.S.;

29 (2) Substances intended for use in the diagnosis, cure, mitigation, treatment, or
30 prevention of disease in man, woman or other animals;

31 (3) Substances (other than food) intended to affect the structure or any function of the
32 body of man, woman or other animals; or

33 (4) Substances intended for use as a component of any substances specified in
34 subdivision (1), (2), or (3) of this subsection ~~and section 5-19-1(16)~~, but not including devices or

1 their component parts or accessories.

2 (k) "Equivalent and interchangeable" means having the same generic name, dosage form,
3 and labeled potency, meeting standards of the United States Pharmacopoeia or National
4 Formulary, or their successors, if applicable, and not found in violation of the requirements of the
5 United States Food and Drug Administration, or its successor agency, or the Rhode Island
6 department of health.

7 (l) "Intern" means:

8 (1) A graduate of an American Council on Pharmaceutical Education (ACPE) accredited
9 program of pharmacy;

10 (2) A student who is enrolled in at least the first year of a professional ACPE accredited
11 program of pharmacy; or

12 (3) A graduate of a foreign college of pharmacy who has obtained full certification from
13 the FPGEC (Foreign Pharmacy Graduate Equivalency Commission) administered by the National
14 Association of Boards of Pharmacy.

15 (m) "Limited function test" means those tests listed in the federal register under the
16 Clinical Laboratory Improvement Amendments of 1988 (CLIA) as waived tests.

17 ~~(m)~~(n) "Legend drugs" means any drugs, which are required by any applicable federal or
18 state law or regulation to be dispensed on prescription only or are restricted to use by practitioners
19 only.

20 ~~(m)~~(o) "Manufacture" means the production, preparation, propagation, compounding, or
21 processing of a drug or other substance or device or the packaging or repackaging.

22 ~~(e)~~(p) "Non-legend" or "nonprescription drugs" means any drugs, which may be lawfully
23 sold without a prescription.

24 ~~(p)~~(q) "Person" means an individual, corporation, government, subdivision or agency,
25 business trust, estate, trust, partnership or association, or any other legal entity.

26 ~~(e)~~(r) "Pharmaceutical care" is the provision of drugs and other pharmaceutical services
27 intended to achieve outcomes related to cure or prevention of a disease, elimination or reduction
28 of a patient's symptoms, or arresting or slowing of a disease process. "Pharmaceutical care"
29 includes the judgment of a pharmacist in dispensing an equivalent and interchangeable drug or
30 device in response to a prescription, after appropriate communication with the prescriber and the
31 patient.

32 ~~(e)~~(s) "Pharmacist-in-charge" means a pharmacist licensed in this state as designated by
33 the owner as the person responsible for the operation of a pharmacy in conformance with all laws
34 and regulations pertinent to the practice of pharmacy and who is personally in full and actual

1 charge of such pharmacy and personnel.

2 ~~(s)~~(t) "Pharmacy" means that portion or part of a premise where prescriptions are
3 compounded and dispensed, including that portion utilized for the storage of prescription or
4 legend drugs.

5 ~~(t)~~(u) "Pharmacy technician" means an individual who meets minimum qualifications
6 established by the board, which are less than those established by this chapter as necessary for
7 licensing as a pharmacist, and works under the direction and supervision of a licensed pharmacist.

8 ~~(u)~~(v) "Practice of pharmacy" means the interpretation, evaluation, and implementation
9 of medical orders; the dispensing of prescription drug orders; participation in drug and device
10 selection; the compounding of prescription drugs; drug regimen reviews and drug or drug related
11 research; the administration of adult immunizations pursuant to a valid prescription or physician
12 approved protocol and in accordance with regulations, to include training requirements as
13 promulgated by the department of health; the administration of all forms of influenza
14 immunizations to individuals between the ages of nine (9) years and eighteen (18) years,
15 inclusive, pursuant to a valid prescription or prescriber approved protocol, in accordance with the
16 provisions of section 5-19.1-31 and in accordance with regulations, to include necessary training
17 requirements specific to the administration of influenza immunizations to individuals between the
18 ages of nine (9) years and eighteen (18) years, inclusive, as promulgated by the department of
19 health; provision of patient counseling and the provision of those acts or services necessary to
20 provide pharmaceutical care; and/or the responsibility for the supervision for compounding and
21 labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of
22 non-prescription drugs and commercially packaged legend drugs and devices), proper and safe
23 storage of drugs and devices, and maintenance of proper records for them and the performance of
24 clinical laboratory tests, provided such testing is limited to limited function tests as defined
25 herein. Nothing in this definition shall be construed to limit or otherwise affect the scope of
26 practice of any other profession.

27 ~~(v)~~(w) "Practitioner" means a physician, dentist, veterinarian, nurse or other person duly
28 authorized by law in the state in which they practice to prescribe drugs.

29 ~~(w)~~(x) "Preceptor" means a pharmacist registered to engage in the practice of pharmacy
30 in this state, who has the responsibility for training interns.

31 ~~(x)~~(y) "Prescription" means an order for drugs or devices issued by the practitioner duly
32 authorized by law in the state in which he or she practices to prescribe drugs or devices in the
33 course of his or her professional practice for a legitimate medical purpose.

34 ~~(y)~~(z) "Wholesaler" means a person who buys drugs or devices for resale and

1 distribution to corporations, individuals, or entities other than consumers.

2 SECTION 2. Section 5-19.2-2 of the General Laws in Chapter 5-19.2 entitled
3 "Collaborative Pharmacy Practice" is hereby amended to read as follows:

4 **5-19.2-2. Definitions.** -- (a) "Collaborative practice agreement" is a written and signed
5 agreement, entered into voluntarily, between a pharmacist with advanced training and experience
6 relevant to the scope of collaborative practice and one or more physicians that defines the
7 collaborative pharmacy practice in which the pharmacist and physician(s) propose to engage.
8 Collaborative practice agreements shall be made in the best interest of public health.

9 (b) "Collaborative practice committee" shall consist of six (6) individuals: three (3)
10 individuals to be appointed by the board of pharmacy from nominees provided by the Rhode
11 Island Pharmacists Association; three (3) individuals to be appointed by the board of medical
12 licensure and discipline from nominees provided by the Rhode Island Medical Society. The
13 collaborative practice committee shall advise the director on all issues pertinent to the regulation
14 of collaborative practice agreements.

15 (c) "Collaborative pharmacy practice" is that practice of pharmacy whereby a pharmacist
16 with advanced training and experience relevant to the scope of collaborative practice agrees to
17 work in collaboration with one or more physicians for the purpose of drug therapy management
18 of patients, such management to be pursuant to a protocol or protocols authorized by the
19 physician(s) and subject to conditions and/or limitations as set forth by the department. A health
20 care professional who has prescribing privileges and is employed by a collaborating physician
21 may be in such an agreement.

22 (d) "Drug therapy management" means the review, in accordance with a collaborative
23 practice agreement, of drug therapy regimen or regimens of patients by a pharmacist for the
24 purpose of rendering advice to one or more physicians that are party to the agreement, or their
25 physician designees, regarding adjustment of the regimen. Decisions involving drug therapy
26 management shall be made in the best interests of the patient. In accordance with a collaborative
27 practice agreement, drug therapy management may include:

- 28 (1) Modifying and managing drug therapy;
29 (2) Collecting and reviewing patient histories;
30 (3) Obtaining and checking vital signs, including pulse, temperature, blood pressure, and
31 respiration; and

32 (4) Under the supervision of, or in direct consultation with a physician, ordering and
33 evaluating the results of laboratory tests directly related to drug therapy when performed in
34 accordance with approved protocols applicable to the practice setting and providing such

1 evaluation does not include any diagnostic component.

2 (e) "Limited function test" means those tests listed in the federal register under the
3 clinical laboratory improvement amendments of 1988 (CLIA) as waived tests.

4 ~~(e)~~(f) "Pharmacist with advanced training and experience relevant to the scope of
5 collaborative practice" means a licensed pharmacist in this state with post-graduate educational
6 training. Such training shall include, but not limited to, residency training, board certification,
7 certification from an accredited professional organization educational institution, or any other
8 continuing education provider approved by the director of health, relevant to the proposed scope
9 of the collaborative practice agreement.

10 ~~(f)~~(g) "Practice of pharmacy" means the interpretation, evaluation, and implementation
11 of medical orders; including the performance of clinical laboratory tests provided such testing is
12 limited to limited function tests as described herein ~~conducted in conformity with the federal~~
13 ~~Clinical Laboratories Improvement Act, as amended, 42 U.S.C. section 263a~~; the dispensing of
14 prescription drug orders; participation in drug and device selection; drug regimen reviews and
15 drug or drug related research; provision of patient counseling and the provision of those acts or
16 services necessary to provide pharmaceutical care; drug therapy management pursuant to a
17 collaborative practice agreement; and the responsibility for the supervision for compounding and
18 labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of
19 nonprescription drugs and commercially packaged legend drugs and devices), proper and safe
20 storage of drugs and devices, and maintenance of proper records for them.

21 SECTION 3. Section 23-16.2-3 of the General Laws in Chapter 23-16.2 entitled
22 "Laboratories" is hereby amended to read as follows:

23 **23-16.2-3. Application of law -- Exceptions.** -- The provisions of this chapter shall
24 apply to all laboratories and stations performing analytical or clinical laboratory services or
25 specimens in this state except:

26 (1) A laboratory maintained by a hospital licensed under chapter 17 of this title, or by a
27 licensed physician or group of licensed physicians who make the tests referred to in section 23-
28 16.2-2 personally and solely in connection with the treatment of their own patients; however, an
29 independent laboratory which makes the tests on its own responsibility for a single physician or
30 group of physicians is subject to this chapter.

31 (2) Any temporary or ad hoc health promotion or screening program conducted for the
32 general public which offers generally accepted mass screening procedures; provided the health
33 promotion or screening program is conducted pursuant to a permit issued by the department of
34 health.

1 (3) Any person performing only limited function tests as defined in regulation by the
2 director.

3 [\(4\) Licensed pharmacists performing limited function tests as defined in § 5-19.1-2\(m\).](#)

4 SECTION 4. Section 23-16.3-4 of the General Laws in Chapter 23-16.3 entitled "Clinical
5 Laboratory Science Practice" is hereby amended to read as follows:

6 **23-16.3-4. Exceptions.** -- This chapter shall not apply to:

7 (1) Any person performing clinical laboratory tests within the scope of his or her practice
8 and for which he or she is licensed pursuant to any other provisions of the general laws.

9 (2) Clinical laboratory science practitioners employed by the United States government
10 or any bureau, division, or agency of the United States government while in the discharge of the
11 employee's official duties.

12 (3) Clinical laboratory science practitioners engaged in teaching or research, provided
13 that the results of any examination performed are not used in health maintenance, diagnosis, or
14 treatment of disease.

15 (4) Students or trainees enrolled in a clinical laboratory science education program
16 provided that these activities constitute a part of a planned course in the program, that the persons
17 are designated by title such as intern, trainee, or student, and the persons work directly under the
18 supervision of an individual licensed by this state to practice laboratory science.

19 (5) Individuals performing limited function tests.

20 [\(6\) Licensed pharmacists performing limited function tests as defined in §5-19.1-2 \(m\).](#)

21 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO BUSINESSES AND PROFESSIONS - PHARMACIES

- 1 This act would permit pharmacists to perform limited function clinical laboratory tests.
- 2 This act would take effect upon passage.

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