

2021 -- H 5189

=====
LC000650
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

Introduced By: Representatives McEntee, Caldwell, Donovan, and O'Brien

Date Introduced: January 27, 2021

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 "Pharmacies"

2 is hereby amended to read as follows:

3 **5-19.1-2. Definitions.**

4 (a) "Biological product" means a "biological product" as defined in the "Public Health
5 Service Act", 42 U.S.C. § 262.

6 (b) "Board" means the Rhode Island board of pharmacy.

7 (c) "Change of ownership" means:

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

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

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

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

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

16 (iii) The consolidation of two (2) or more corporations resulting in the creation of a new
17 corporation; or

18 (iv) In the case of a pharmacy, manufacturer, or wholesaler that is a business corporation,
19 any transfer of corporate stock that results in a new person acquiring a controlling interest in the

1 corporation; or

2 (v) In the case of a pharmacy, manufacturer, or wholesaler that is a non-business
3 corporation, any change in membership that results in a new person acquiring a controlling vote in
4 the corporation.

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

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

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

17 (g) "Device" means instruments, apparatus, and contrivances, including their components,
18 parts, and accessories, intended:

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

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

22 (h) "Director" means the director of the Rhode Island state department of health.

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

26 (j) "Distribute" means the delivery of a drug or device other than by administering or
27 dispensing.

28 (k) "Drug" means:

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

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

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

1 (4) Substances intended for use as a component of any substances specified in subdivision
2 (1), (2), or (3) of this subsection, but not including devices or their component parts or accessories.

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

8 (m) "Interchangeable biological product" means a biological product that the United States
9 Food and Drug Administration has:

10 (1) Licensed and determined meets the standards for interchangeability pursuant to 42
11 U.S.C. § 262(k)(4) or lists of licensed, biological products with reference product exclusivity and
12 biosimilarity or interchangeability evaluations; or

13 (2) Determined is therapeutically equivalent as set forth in the latest edition of or
14 supplement to, the United States Food and Drug Administration's Approved Drug Products with
15 Therapeutic Equivalence Evaluations.

16 (n) "Intern" means:

17 (1) A graduate of an American Council on Pharmaceutical Education (ACPE)-accredited
18 program of pharmacy;

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

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

24 (o) "Legend drugs" means any drugs that are required by any applicable federal or state
25 law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

26 (p) "Limited-function test" means those tests listed in the federal register under the Clinical
27 Laboratory Improvement Amendments of 1988 (CLIA) as waived tests. For the purposes of this
28 chapter, limited-function test shall include only the following: blood glucose, hemoglobin Alc,
29 cholesterol tests, and/or other tests that are classified as waived under CLIA and are approved by
30 the United States Food and Drug Administration for sale to the public without a prescription in the
31 form of an over-the-counter test kit.

32 (q) "Manufacture" means the production, preparation, propagation, compounding, or
33 processing of a drug or other substance or device or the packaging or repackaging.

34 (r) "Non-legend" or "non-prescription drugs" means any drugs that may be lawfully sold

1 without a prescription.

2 (s) "Person" means an individual, corporation, government, subdivision, or agency,
3 business trust, estate, trust, partnership or association, or any other legal entity.

4 (t) "Pharmaceutical care" is the provision of drugs and other pharmaceutical services
5 intended to achieve outcomes related to cure or prevention of a disease elimination or reduction of
6 a patient's symptoms or arresting or slowing of a disease process. "Pharmaceutical care" includes
7 the judgment of a pharmacist in dispensing an equivalent and interchangeable drug or device in
8 response to a prescription after appropriate communication with the prescriber and the patient.

9 (u) "Pharmacist in charge" means a pharmacist licensed in this state as designated by the
10 owner as the person responsible for the operation of a pharmacy in conformance with all laws and
11 regulations pertinent to the practice of pharmacy and who is personally in full and actual charge of
12 such pharmacy and personnel.

13 (v) "Pharmacy" means that portion or part of a premise where prescriptions are
14 compounded and dispensed, including that portion utilized for the storage of prescription or legend
15 drugs.

16 (w) "Pharmacy technician" means an individual who meets minimum qualifications
17 established by the board, that are less than those established by this chapter as necessary for
18 licensing as a pharmacist, and who works under the direction and supervision of a licensed
19 pharmacist.

20 (x) "Practice of pharmacy" means the interpretation, evaluation, and implementation of
21 medical orders; the dispensing of prescription drug orders; participation in drug and device
22 selection; the compounding of prescription drugs; drug regimen reviews and drug or drug-related
23 research; the administration of adult immunizations pursuant to a valid prescription or physician-
24 approved protocol and in accordance with regulations, to include training requirements as
25 promulgated by the department of health; the administration of all forms of influenza
26 immunizations to individuals between the ages of nine (9) years and eighteen (18) years, inclusive,
27 pursuant to a valid prescription or prescriber-approved protocol, in accordance with the provisions
28 of § 5-19.1-31 and in accordance with regulations, to include necessary training requirements
29 specific to the administration of influenza immunizations to individuals between the ages of nine
30 (9) years and eighteen (18) years, inclusive, as promulgated by the department of health; provision
31 of patient counseling and the provision of those acts or services necessary to provide
32 pharmaceutical care; and/or the responsibility for the supervision for compounding and labeling of
33 drugs and devices (except labeling by a manufacturer, repackager, or distributor of non-prescription
34 drugs and commercially packaged legend drugs and devices), proper and safe storage of drugs and

1 devices, and maintenance of proper records for them; and the performance of clinical laboratory
2 tests, provided such testing is limited to limited-function tests as defined herein; [the authority to](#)
3 [prescribe drugs and devices in accordance with regulations adopted by the board of pharmacy under](#)
4 [§ 5-19.1-34](#). Nothing in this definition shall be construed to limit or otherwise affect the scope of
5 practice of any other profession.

6 (y) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly
7 authorized by law in the state in which they practice to prescribe drugs.

8 (z) "Preceptor" means a pharmacist registered to engage in the practice of pharmacy in this
9 state who has the responsibility for training interns.

10 (aa) "Prescription" means an order for drugs or devices issued by the practitioner duly
11 authorized by law in the state in which he or she practices to prescribe drugs or devices in the course
12 of his or her professional practice for a legitimate medical purpose.

13 (bb) "Wholesaler" means a person who buys drugs or devices for resale and distribution to
14 corporations, individuals, or entities other than consumers.

15 SECTION 2. Chapter 5-19.1 of the General Laws entitled "Pharmacies" is hereby amended
16 by adding thereto the following section:

17 **5-19.1-36. Pharmacist prescriptive authority.**

18 [\(a\) The department of health shall adopt regulations governing a pharmacist's authority to](#)
19 [prescribe drugs and devices. The regulations for a pharmacist prescribing shall include the](#)
20 [conditions for which a pharmacist may prescribe an indicated drug or device.](#)

21 [\(b\) Pharmacist prescriptive authority shall be limited to conditions for which one of the](#)
22 [following applies:](#)

23 [\(1\) The condition does not require a new diagnosis;](#)

24 [\(2\) The condition is minor and generally self-limiting;](#)

25 [\(3\) Diagnosis of the condition or other clinical decision-making can be guided by a test](#)
26 [that has received a waiver under the Clinical Laboratory Improvement Amendments of 1988, 42](#)
27 [U.S.C. § 263\(a\); or](#)

28 [\(4\) In the professional judgment of the pharmacist, immediate dispensing of a drug or](#)
29 [device is necessary to avoid significant harm to the patient's health and safety.](#)

30 [\(c\) When prescribing a drug to treat a condition described in subsection \(b\)\(4\) of this](#)
31 [section, a pharmacist may prescribe the drug only in an amount necessary to address the condition](#)
32 [until the patient can be seen by another health care professional.](#)

1 SECTION 3. This act shall take effect upon passage.

=====
LC000650
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

1 This act would amend the definition of the practice of pharmacy to include the authority to
2 prescribe drugs and devices. The act would also provide the conditions for which a pharmacist may
3 prescribe an indicated drug or device.

4 This act would take effect upon passage.

=====
LC000650
=====