

Chapter 218

(House Bill 693)

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 12-101(a) ~~and 12-307(d)~~

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 12-101(g), 12-202(a) and (b), 12-307(d), 12-6B-06, and 12-802

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

BY adding to

Article – Health Occupations

Section 12-307(e)

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

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

Article – Health Occupations

12-101.

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

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

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

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

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

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

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

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

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

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

12-202.

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

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

(i) Ten shall be licensed pharmacists, including:

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

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

3. Two who at the time of appointment practice primarily in an acute-care hospital;
4. One who at the time of appointment practices primarily in a pharmacy that provides services to a long-term care facility;
5. One who at the time of appointment practices primarily in a pharmacy that specializes in the provision of home infusion/home care services; and
6. Two pharmacists at-large; [and]

(II) ONE SHALL BE A REGISTERED PHARMACY TECHNICIAN;

AND

[(ii)] (III) Two shall be consumer members.

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

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

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

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

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

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

(VII) THE GOVERNOR SHALL APPOINT THE REGISTERED PHARMACY TECHNICIAN MEMBER, WITH THE ADVICE OF THE SECRETARY, FROM A LIST OF ALL NAMES SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY THE

MARYLAND SOCIETY OF HEALTH–SYSTEM PHARMACISTS AND THE MARYLAND PHARMACISTS ASSOCIATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Be skilled and competent in practicing pharmacy; and
- (2) Have at least 5 years of active pharmacy practice.

12-307.

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

- (1) Are directly supervised by a licensed pharmacist;
- (2) Are not required to be performed by a licensed pharmacist;
- (3) Are within the education, training, experience, and area of practice of the delegating licensed pharmacist; and
- (4) Are appropriate to the education, training, and experience of the registered pharmacy technician, pharmacy student, or pharmacy technician trainee.

(E) A LICENSED PHARMACIST MAY DELEGATE PHARMACY ACTS, INCLUDING THE ENTERING ENTRY OF PRESCRIPTION-RELATED DATA INTO DATABASES OR PATIENT CHARTS, TO BE PERFORMED AT A REMOTE LOCATION TO A REGISTERED PHARMACY TECHNICIAN OR A REGISTERED PHARMACY INTERN PROVIDED THAT THE DELEGATED PHARMACY ACTS IF:

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

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

(2) THE DATA ENTRY:

~~(2)~~ **(1) ARE IS NOT REQUIRED TO BE PERFORMED BY A LICENSED PHARMACIST;**

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

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

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

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

12-6B-06.

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

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

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

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

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

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

(C) (1) A REGISTERED PHARMACY TECHNICIAN MAY ADMINISTER AN, IN ACCORDANCE WITH § 12-508 OF THIS TITLE:

(I) AN INFLUENZA, COVID-19, OR PNEUMONIA VACCINATION IN ACCORDANCE WITH § 12-508 OF THIS TITLE TO AN INDIVIDUAL AT LEAST 18 YEARS OLD; AND

(II) A RESPIRATORY SYNCYTIAL VIRUS OR SHINGLES VACCINATION TO AN INDIVIDUAL AT LEAST 50 YEARS OLD.

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

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

12-802.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2023] ~~2023~~ **2025**.

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

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

Approved by the Governor, April 24, 2023.