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By: Delegate Hammen

Introduced and read first time: February 8, 2013 Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

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State Board of Pharmacy - Sterile Compounding - Permits

FOR the purpose of requiring a sterile compounding facility to hold a sterile compounding permit issued by the State Board of Pharmacy before the sterile compounding facility may perform sterile compounding in the State; providing that a sterile compounding permit is required in addition to and does not replace certain other permits or licenses; requiring a sterile compounding facility that performs sterile compounding outside the State to hold a sterile compounding permit issued by the Board under certain circumstances; requiring a separate sterile compounding permit for each site at which sterile compounding is performed; prohibiting the transfer of a sterile compounding permit; requiring an applicant for a sterile compounding permit to satisfy the Board that the applicant will perform sterile compounding in accordance with certain requirements; requiring the Board to establish permit requirements in certain tiered permit categories and to require an applicant to obtain a permit in a certain category; establishing certain application requirements for a sterile compounding permit; prohibiting the Board from issuing a sterile compounding permit unless the Board or its designee conducts an inspection and finds that the sterile compounding facility meets certain requirements; requiring the Board to issue a sterile compounding permit to any applicant that meets certain requirements; providing for the expiration and renewal of a sterile compounding permit; requiring the Board to adopt regulations to carry out certain provisions of this Act; requiring the regulations to require or include certain provisions; establishing inspection and reporting requirements for sterile compounding applicants and permit holders; authorizing the Board to take certain disciplinary actions and impose certain fines for certain violations; providing that each violation is grounds for a separate fine; requiring the Board to pay certain fines into the State Board of Pharmacy Fund; providing for a certain hearing and a certain appeal; requiring the Board to report on its Web site and make available to the public on request certain information relating to certain actions of the Board; prohibiting a sterile compounding facility from operating



1	in the State or allowing the sterile compounded preparations of the sterile					
$\frac{2}{3}$	compounding facility to be dispensed in the State unless the sterile					
	compounding facility holds a sterile compounding permit issued by the Board;					
4	requiring the Board to maintain and submit to the Secretary with a certain					
5	frequency certain information relating to sterile compounding permit holders;					
6	establishing certain criminal penalties and a certain civil fine for certain					
7	violations; defining certain terms; repealing a certain obsolete provision of law;					
8	and generally relating to sterile compounding permits and the State Board of					
9	Pharmacy.					
10	BY adding to					
11	Article – Health Occupations					
12	Section 12–4A–01 through 12–4A–11 to be under the new subtitle "Subtitle 4A.					
13	Sterile Compounding Permits"					
14	Annotated Code of Maryland					
15	(2009 Replacement Volume and 2012 Supplement)					
16	BY repealing and reenacting, with amendments,					
17	Article – Health Occupations					
18	Section 12–707					
19	Annotated Code of Maryland					
20	(2009 Replacement Volume and 2012 Supplement)					
	(2000 hopiacomono volume and 2012 supplement)					
21	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF					
22						
23	Article - Health Occupations					
24	SUBTITLE 4A. STERILE COMPOUNDING PERMITS.					
0.5	10 44 01					
25	12-4A-01.					
26	(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS					
27	INDICATED.					
41	INDICATED.					
28	(B) (1) "COMPOUNDING" MEANS THE PREPARATION, MIXING,					
29						
40	ASSEMBLING, I ACKAGING, OR LABELING OF A DIVOG OR DEVICE.					
30	(I) AS THE RESULT OF A PRACTITIONER'S PRESCRIPTION					
31	DRUG ORDER OR INITIATIVE BASED ON THE					
32	PRACTITIONER/PATIENT/PHARMACIST RELATIONSHIP IN THE COURSE OF					
33						
55	1 1001 20010111 1 1010 11029 040					

- 1 (II) FOR THE PURPOSE OF, OR INCIDENTAL TO, RESEARCH,
- 2 TEACHING, OR CHEMICAL ANALYSIS AND NOT FOR THE SALE OR DISPENSING OF
- 3 THE DRUG OR DEVICE.
- 4 (2) "COMPOUNDING" INCLUDES THE PREPARATION OF DRUGS OR
- 5 DEVICES IN ANTICIPATION OF A PRESCRIPTION DRUG ORDER BASED ON
- 6 ROUTINE, REGULARLY OBSERVED PRESCRIBING PATTERNS.
- 7 (C) "DESIGNEE" MEANS A PUBLIC AGENCY OR PRIVATE ENTITY
- 8 APPROVED BY THE BOARD TO CONDUCT INSPECTIONS OF STERILE
- 9 COMPOUNDING APPLICANTS OR PERMIT HOLDERS LOCATED OUTSIDE THE
- 10 **STATE.**
- 11 (D) "STERILE COMPOUNDING" MEANS COMPOUNDING OF BIOLOGICS,
- 12 DIAGNOSTICS, DRUGS, NUTRIENTS, AND RADIOPHARMACEUTICALS THAT,
- 13 UNDER USP 797, MUST BE STERILE WHEN ADMINISTERED TO PATIENTS.
- 14 (E) "STERILE COMPOUNDING FACILITY" MEANS A PHARMACY, A
- 15 HEALTH CARE PRACTITIONER'S OFFICE, OR ANY OTHER SETTING IN WHICH
- 16 STERILE PREPARATIONS ARE COMPOUNDED.
- 17 (F) "USP 797" MEANS THE STANDARDS SET FORTH IN THE UNITED
- 18 STATES PHARMACOPEIA, GENERAL CHAPTER 797, "PHARMACEUTICAL
- 19 COMPOUNDING STERILE PREPARATIONS".
- 20 **12–4A–02.**
- 21 (A) A STERILE COMPOUNDING FACILITY SHALL HOLD A STERILE
- 22 COMPOUNDING PERMIT ISSUED BY THE BOARD BEFORE THE STERILE
- 23 COMPOUNDING FACILITY MAY PERFORM STERILE COMPOUNDING IN THE
- 24 **STATE.**
- 25 (B) A STERILE COMPOUNDING PERMIT IS REQUIRED IN ADDITION TO
- 26 AND DOES NOT REPLACE ANY OTHER PERMIT OR LICENSE A STERILE
- 27 COMPOUNDING FACILITY HOLDS.
- 28 (C) A STERILE COMPOUNDING FACILITY THAT PERFORMS STERILE
- 29 COMPOUNDING OUTSIDE THE STATE SHALL HOLD A STERILE COMPOUNDING
- 30 PERMIT ISSUED BY THE BOARD BEFORE THE STERILE COMPOUNDED
- 31 PREPARATIONS OF THE STERILE COMPOUNDING FACILITY ARE DISPENSED IN
- 32 THE STATE.

- A SEPARATE STERILE COMPOUNDING PERMIT IS REQUIRED FOR 1 2 EACH SITE AT WHICH STERILE COMPOUNDING IS PERFORMED. 3 **(E)** A STERILE COMPOUNDING PERMIT IS NOT TRANSFERABLE. 12-4A-03. 4 5 TO QUALIFY FOR A STERILE COMPOUNDING PERMIT, AN APPLICANT 6 SHALL SATISFY THE BOARD THAT THE APPLICANT WILL PERFORM STERILE 7 COMPOUNDING IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE. 8 (B) THE BOARD SHALL: ESTABLISH PERMIT REQUIREMENTS FOR APPLICANTS IN 9 **(1)** 10 THREE TIERED PERMIT CATEGORIES, BASED ON THE RISK CATEGORIES **DESCRIBED IN USP 797:** 11 LOW RISK; 12 (I)13 (II)MEDIUM RISK; AND 14 (III) HIGH RISK; AND 15 REQUIRE AN APPLICANT TO OBTAIN A PERMIT IN THE CATEGORY APPROPRIATE TO THE HIGHEST RISK OF STERILE COMPOUNDING 16 PERFORMED BY THE STERILE COMPOUNDING FACILITY. 17 18 12-4A-04.19 TO APPLY FOR A STERILE COMPOUNDING PERMIT, AN APPLICANT (A) 20 SHALL: 21**(1)** PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD; 22**AND** SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT 23**(2)** THE BOARD REQUIRES. 24
- 25 (B) THE BOARD MAY NOT ISSUE A STERILE COMPOUNDING PERMIT TO 26 AN APPLICANT UNLESS THE BOARD OR ITS DESIGNEE:
- 27 (1) CONDUCTS AN INSPECTION OF THE STERILE COMPOUNDING 28 FACILITY APPLYING FOR THE PERMIT; AND

- 1 (2) FINDS THAT THE STERILE COMPOUNDING FACILITY MEETS 2 THE BOARD'S REQUIREMENTS.
- 3 (C) THE BOARD SHALL ISSUE A STERILE COMPOUNDING PERMIT TO 4 ANY APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SECTION.
- 5 **12–4A–05**.
- 6 (A) A STERILE COMPOUNDING PERMIT EXPIRES ON THE SECOND 7 ANNIVERSARY AFTER ITS EFFECTIVE DATE, UNLESS THE STERILE 8 COMPOUNDING PERMIT IS RENEWED FOR AN ADDITIONAL 2-YEAR TERM AS 9 PROVIDED IN THIS SECTION.
- 10 (B) BEFORE A STERILE COMPOUNDING PERMIT EXPIRES, THE STERILE COMPOUNDING PERMIT MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM IF 12 THE APPLICANT:
- 13 (1) OTHERWISE IS ENTITLED TO THE PERMIT;
- 14 (2) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD 15 IN REGULATION; AND
- 16 (3) SUBMITS TO THE BOARD:
- 17 (I) A RENEWAL APPLICATION ON THE FORM THE BOARD 18 REQUIRES; AND
- 19 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY 20 REQUIREMENT UNDER THIS SUBTITLE FOR RENEWAL OF THE PERMIT.
- 21 (C) THE BOARD SHALL RENEW A PERMIT IF THE APPLICANT MEETS THE 22 REQUIREMENTS OF THIS SECTION.
- 23 **12–4A–06.**
- 24 (A) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS 25 SUBTITLE.
- 26 (B) THE REGULATIONS SHALL:
- 27 (1) REQUIRE COMPLIANCE WITH USP 797;

1 2 3	(2) REQUIRE EACH STERILE COMPOUNDED PREPARATION TO BE DISPENSED OR ADMINISTERED IN ACCORDANCE WITH A PRESCRIPTION FROM AN AUTHORIZED PRESCRIBER;
4 5	(3) INCLUDE, FOR EACH STERILE COMPOUNDING PERMIT CATEGORY:
6 7	(I) IN ACCORDANCE WITH §§ 12–4A–07 AND 12–4A–08 OF THIS SUBTITLE, REQUIREMENTS FOR:
8	1. Inspections;
9 10	2. REPORTING OF ADVERSE EVENTS AND EVIDENCE OF ENVIRONMENTAL CONTAMINATION; AND
11 12	3. REPORTING OF DEFICIENCIES, DISCIPLINARY ACTION, OR CHANGES IN ACCREDITATION STATUS;
13	(II) QUALITY AND SAFETY STANDARDS; AND
14	(III) INITIAL PERMIT AND PERMIT RENEWAL FEES; AND
15 16 17 18	(4) REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO ENSURE THAT PERSONNEL ENGAGING IN STERILE COMPOUNDING ARE TRAINED AND DEMONSTRATE COMPETENCE IN THE SAFE HANDLING AND COMPOUNDING OF STERILE PREPARATIONS.
19	12-4A-07.
20	(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD:
21	(1) SHALL INSPECT A STERILE COMPOUNDING PERMIT HOLDER:
22 23	(I) IN A HIGH-RISK OR MEDIUM-RISK CATEGORY, AT LEAST ANNUALLY; AND
24 25	(II) IN A LOW-RISK CATEGORY, AT INTERVALS REQUIRED BY THE BOARD;
26 27 28 29	(2) SHALL INCLUDE IN ALL INSPECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, MICROBIAL TESTING OF A SAMPLING OF THE COMPOUNDED PREPARATIONS OF THE STERILE COMPOUNDING PERMIT HOLDER; AND

(3) MAY INSPECT A STERILE COMPOUNDING PERMIT HOLDER AT				
ANY TIME:				
(I) TO VERIFY COMPLIANCE WITH PERMIT REQUIREMENTS; OR				
OK				
(II) TO INVESTIGATE A COMPLAINT.				
(B) (1) IF AN APPLICANT OR PERMIT HOLDER IS PERFORMING				
STERILE COMPOUNDING OUTSIDE THE STATE, THE BOARD MAY RELY ON AN INSPECTION CONDUCTED BY A DESIGNEE TO CONDUCT INSPECTIONS UNDER				
THIS SUBTITLE.				
(2) THE BOARD MAY APPROVE A DESIGNEE TO CONDUCT				
INSPECTIONS OF APPLICANTS OR PERMIT HOLDERS OUTSIDE THE STATE ONLY				
IF THE INSPECTIONS ARE CONDUCTED IN ACCORDANCE WITH THIS SUBTITLE				
AND THE REGULATIONS ADOPTED BY THE BOARD.				
(3) An applicant or permit holder outside the State is				
RESPONSIBLE FOR OBTAINING AN INSPECTION FROM A DESIGNEE TO MEET THE				
REQUIREMENTS OF THIS SUBTITLE.				
12-4A-08.				
12-4A-08.				
(A) THE BOARD SHALL:				
(1) DETERMINE THE ADVERSE EVENTS AND EVIDENCE OF				
ENVIRONMENTAL CONTAMINATION THAT MUST BE REPORTED BY A STERILE				
COMPOUNDING PERMIT HOLDER; AND				
(2) REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO				
REPORT TO THE BOARD THE ADVERSE EVENTS OR EVIDENCE OF ENVIRONMENTAL CONTAMINATION WITHIN 5 CALENDAR DAYS AFTER				
BECOMING AWARE OF THE ADVERSE EVENTS OR EVIDENCE.				
DECOMING AWARE OF THE ADVERSE EVENTS OR EVIDENCE.				
(B) (1) THE BOARD SHALL:				
(I) DETERMINE THE DEFICIENCIES, DISCIPLINARY				
ACTIONS, AND CHANGES IN ACCREDITATION STATUS DESCRIBED IN PARAGRAPH				
(2) OF THIS SUBSECTION THAT MUST BE REPORTED BY A STERILE				
COMPOUNDING PERMIT HOLDER; AND				

1 2 3 4 5	(II) REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO REPORT TO THE BOARD THE DEFICIENCIES, DISCIPLINARY ACTIONS, AND CHANGES IN ACCREDITATION STATUS WITHIN 5 CALENDAR DAYS AFTER BECOMING AWARE OF THE DEFICIENCIES, DISCIPLINARY ACTIONS, OR CHANGES IN ACCREDITATION STATUS.
6 7	(2) THE BOARD MAY REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO REPORT UNDER PARAGRAPH (1) OF THIS SUBSECTION:
8 9 10 11	(I) A DEFICIENCY NOTED DURING AN INSPECTION, DURING AN ACCREDITATION SITE VISIT, OR IN OFFICIAL CORRESPONDENCE FROM A STATE OR FEDERAL AGENCY, A PROFESSIONAL ASSOCIATION, OR AN ACCREDITATION ORGANIZATION;
12 13 14 15 16 17	(II) DISCIPLINARY ACTION BY A STATE OR FEDERAL AGENCY, INCLUDING A REVOCATION, SUSPENSION, PROBATION, CENSURE, REPRIMAND, OR RESTRICTION PLACED ON A LICENSE, A PERMIT, OR ANY OTHER AUTHORIZATION OF THE STERILE COMPOUNDING PERMIT HOLDER OR A HEALTH CARE PRACTITIONER WHO IS AN OWNER, OPERATOR, OR EMPLOYEE OF A STERILE COMPOUNDING PERMIT HOLDER; OR
18 19 20	(III) A CHANGE IN ACCREDITATION STATUS ISSUED BY A PROFESSIONAL ASSOCIATION OR AN ACCREDITATION ORGANIZATION RELATING TO THE STERILE COMPOUNDING PERMIT HOLDER. 12-4A-09.
21222324	(A) (1) SUBJECT TO THE HEARING PROVISIONS OF SUBSECTION (C) OF THIS SECTION, FOR A VIOLATION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE BOARD MAY:
25	(I) DENY A PERMIT TO AN APPLICANT;
26	(II) REPRIMAND A PERMIT HOLDER;
27	(III) PLACE A PERMIT HOLDER ON PROBATION; OR
28	(IV) SUSPEND OR REVOKE A PERMIT.
29 30 31	(2) Instead of or in addition to a reprimand, probation, suspension, or revocation, the Board may impose a fine not exceeding \$10,000 for any violation of this subtitle.

- 1 (3) EACH VIOLATION OF THIS SUBTITLE OR ANY REGULATION 2 ADOPTED UNDER THIS SUBTITLE IS GROUNDS FOR A SEPARATE FINE.
- 3 (B) THE BOARD SHALL PAY ANY FINE COLLECTED UNDER THIS SECTION 4 INTO THE STATE BOARD OF PHARMACY FUND.
- 5 (C) (1) BEFORE THE BOARD TAKES ANY ACTION UNDER SUBSECTION 6 (A) OF THIS SECTION, IT SHALL GIVE THE APPLICANT OR PERMIT HOLDER AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.
- 8 (2) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.
- 10 (3) ANY APPLICANT OR PERMIT HOLDER AGGRIEVED BY A FINAL 11 DECISION OF THE BOARD MAY APPEAL AS PROVIDED UNDER THE 12 ADMINISTRATIVE PROCEDURE ACT.
- 13 (D) THE BOARD SHALL REPORT ON ITS WEB SITE AND MAKE AVAILABLE 14 TO THE PUBLIC ON REQUEST:
- 15 (1) WITHIN 5 CALENDAR DAYS AFTER TAKING THE ACTION, 16 INFORMATION RELATING TO A SUSPENSION OR REVOCATION OF A PERMIT; AND
- 17 **(2)** WITHIN **30** CALENDAR DAYS AFTER TAKING THE ACTION, 18 INFORMATION RELATING TO ANY OTHER FORMAL ACTION AGAINST AN 19 APPLICANT OR PERMIT HOLDER.
- 20 **12–4A–10.**
- A STERILE COMPOUNDING FACILITY MAY NOT OPERATE IN THE STATE OR
 ALLOW THE STERILE COMPOUNDED PREPARATIONS OF THE STERILE
 COMPOUNDING FACILITY TO BE DISPENSED IN THE STATE UNLESS THE STERILE
 COMPOUNDING FACILITY HOLDS A STERILE COMPOUNDING PERMIT ISSUED BY
 THE BOARD.
- 26 **12–4A–11.**

- THE BOARD SHALL MAINTAIN AND SUBMIT ANNUALLY TO THE SECRETARY INFORMATION RELATING TO EACH STERILE COMPOUNDING PERMIT HOLDER, INCLUDING:
 - (1) THE PERMIT HOLDER'S NAME AND ADDRESS;

1		(2)	THE PERMIT HOLDER'S PERMIT CATEGORY; AND			
2 3	HOLDER D	(3) URING	ANY DISCIPLINARY ACTIONS TAKEN AGAINST THE PERMIT THE REPORTING PERIOD.			
4	12–707.					
5 6 7	(a) A person who violates any provision of the following subtitles or sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000:					
8		(1)	§ 12–311 ("Display of licenses");			
9		(2)	Subtitle 4 ("Pharmacy permits");			
10		(3)	§ 12–502(b) ("Pharmaceutical information");			
11		(4)	$\$ 12–505 ("Labeling requirements for prescription medicines"); and			
12 13	products").	(5)	§ 12-604 ("General power to inspect drugs, devices, and other			
14 15 16	(b) A person who violates any provision of the following sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both:					
17		[(1)	§ 12–602 ("Distribution permits");]			
18 19	FACILITY W	(1) VITHO	§ 12-4A-10 ("OPERATING A STERILE COMPOUNDING UT PERMIT");			
20		(2)	§ 12-701 ("Practicing pharmacy without license");			
21		(3)	§ 12–702 ("License obtained by false representation");			
22		(4)	§ 12-703 ("Operating a pharmacy without permit");			
23		(5)	§ 12–704 ("Misrepresentations"); and			
24		(6)	§ 12–6B–12 ("Working as an unregistered pharmacy technician").			
25 26	(c) continues co		day that a violation of any section of Subtitle 4 of this title tes a separate offense.			
27	(d)	With	in 10 days after a court renders the conviction, the court shall report			

to the Board each conviction of a pharmacist or registered pharmacy technician for:

1	(1) Any crime regarding the pharmacy or drug laws that involves
2	professional misconduct; or
3	(2) Any crime that involves the State law regarding controlled dangerous substances or the federal narcotic laws.
4	uangerous substances of the federal harcotic laws.

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- (e) (1) Any person who violates § 12–4A–10 ("OPERATING A STERILE COMPOUNDING FACILITY WITHOUT PERMIT"), § 12–701 ("Practicing pharmacy without a license"), § 12–703 ("Operating a pharmacy without a permit"), or § 12–6B–12 ("Working as an unregistered pharmacy technician") of this title is subject to a civil fine of not more than \$50,000 to be assessed by the Board.
- 10 (2) The Board shall pay any penalty collected under this subsection 11 into the State Board of Pharmacy Fund.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.