COMMONWEALTH OF VIRGINIA

Meeting of the Board of Pharmacy

Perimeter Center, 9960 Mayland Dr., Second Floor **(804) 367-4456 (Tel)**
Richmond, Virginia 23230 **(804) 527-4472(Fax)**

Tentative Agenda of Meeting

March 11. 2009

9:00AM

TOPIC	PAGE(S)
Call to Order: David C. Kozera, Chairman	
• Welcome and Introductions	
• Reading of emergency evacuation script	
• Approval of Agenda	
• Approval of previous Board meeting minutes:	1-26
◦ December 10, 2008, Board meeting	
◦ December 17, 2008, Special Conference Committee	
◦ January 7, 2009, Informal Conference Committee	
◦ January 13, 2009, Special Conference Committee	
◦ February 17, 2009, Telephone Conference Call	
◦ February 17, 2009, Special Conference Committee	
Call for public comment: The Board will not receive comment on any regulation process for which a public comment period has closed or any pending disciplinary matters. The Board will receive comments on specific topics on this agenda at the time the matter is taken up by the Board.	
DHP Report: Sandra Whitley Ryals, Director	
Legislation:	
• Legislative Update, Elaine Yeatts	27-48
Regulations: Elaine Yeatts	
• Update on regulation processes	49
• Adopt response to public comment and final regulations subsequent to the last periodic review of 18 VAC 110-20-10 et seq.	50-163
Guidance Documents: Scotti Russell	164-165
• Adoption of guidance document 110-41, Changes to Schedule II prescriptions	
Miscellaneous:	
• SMART Disposal, approve link for website	166-167
• Oral orders by DME	168
• Using "ticketing" for disposition of CE audit cases	**handout**

Reports:

- Report on Board of Health Professions-Jennifer H. Edwards

New Business

Consideration of consent orders (if any)

Adjourn

***The Board will have a working lunch at approximately 12 noon.**

**** A panel of the Board will hold formal administrative hearings at beginning at 12:30 PM or after adjournment of the full Board meeting whichever is earlier.**

(DRAFT/UNAPPROVED)

VIRGINIA BOARD OF PHARMACY
MINUTES OF BOARD MEETING

December 10, 2008
Second Floor
Conference Room 2

Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, VA 23233-1463

CALL TO ORDER: The meeting was called to order at 9:10AM.

PRESIDING: David C. Kozera, Chairman

MEMBERS PRESENT:
Gill B. Abernathy
John O. Beckner
Gerard Dabney
Jennifer H. Edwards
Bobby Ison
Leo H. Ross
Michael E. Stredler
Brandon K. Yi

MEMBERS ABSENT: Willie Brown

STAFF PRESENT:
Elizabeth Scott Russell, Executive Director
Cathy M. Reiniers-Day, Deputy Executive Director
Howard M. Casway, Senior Assistant Attorney General
Sandra Whitley Ryals, Director, DHP
Elaine J. Yeatts, Senior Regulatory Analyst, DHP
Sharon Davenport, Administrative Assistant

QUORUM: With nine board members present, a quorum was established.

APPROVAL OF AGENDA: Two additional sets of minutes, August 28, 2008 SCC and November 20, 2008 SCC, were added to the agenda to be approved. With no other changes to the agenda, the agenda was approved as amended.

APPROVAL OF MINUTES: The Board reviewed draft minutes for the September 3, 2008, Board meeting; August 28, 2008, Special Conference Committee; September 3, 2008, Panel, Formal Hearings; September 10, 2008, Telephone Conference Call; September 24, 2008, Special Conference Committee; September 25, 2008, Telephone Conference Call; September 29, 2008, Panel, Formal Hearing; November 13, 2008, Regulation Committee; and November 20, 2008 Special Conference Committee. With no changes to the minutes the minutes were approved as presented.

PUBLIC HEARING ON PROPOSED REGULATIONS: A public hearing was held on proposed regulations of the Board of Pharmacy, 18 VAC 110-20-10 et seq., resulting from the Board's

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periodic review process. A copy of the transcript of the hearing will be maintained as part of the permanent record for regulation promulgation.

PUBLIC COMMENTS: No additional public comments were received at this time.

DHP DIRECTOR'S REPORT: Ms. Ryals provided the Board with an update on the Virginia Performs measures with statistics from the first quarter of FY2009. The Board of Pharmacy for this quarter was at 125% clearance rate which measures the numbers of cases closed in comparison with the numbers received. A clearance rate of over 100% is necessary to continue to decrease the backlog of any old cases. The age of pending caseload for Pharmacy was at 9% of open patient care cases (10 cases) over 250 business days. The percentage of cases closed within 250 business days for the last quarter was 77%. The agency goal for this measure is 90%, and the lower percentage probably represents the closing of older cases in the backlog. The Board's two licensure processing measures were at 97% for customer satisfaction, and 100% for issuance of license within 30 days of receipt of a completed application.

Ms. Ryals informed the Board of pending negotiations with VCU to streamline the Health Practitioners Intervention Program in an effort to reduce costs of the program. She stated that while the program was an excellent program, it had some components that were more related to treatment and that the department would be moving to a program that was a monitoring model. She stated that the Department currently spends approximately $2 million a year for this program for a relatively small number of licensees, and that due to the current budget constraints, the Department is looking to reduce overall costs. Ms. Ryals stated that the program shall continue to be consistent with the core mission of the agency which is to ensure that licensed practitioners are competent and safe to practice. One of the cost savings measures for the program will be to eliminate payment by the Department for those persons who may have been suspended or revoked and are not practicing, and those practitioners who may be solely practicing in another state. It will continue to pay for persons applying for a license to include someone applying for reinstatement following a suspension or revocation for a period of time. The Department is putting a legislative proposal forward to assist with cost savings and make other improvements to include allowing participants to be charged a fee for the program, scale back the services to a monitoring program rather than a treatment program, and change the name of the program from "intervention" to "monitoring", as well as a number of other technical amendments.

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Ms. Ryals also informed the Board that the Department was going forward with a legislative proposal related to the Prescription Monitoring Program. The proposal would eliminate the requirement for a signed patient release before a prescriber could query the system in favor of a notification consistent with what pharmacists currently must provide. The proposal will also allow for exchange of information between different state programs to assist with patients who cross borders to engage in doctor/pharmacy shopping.

Ms. Ryals also provided the Board with an overview and update of the Healthcare Workforce Data Center. She stated that Virginia is facing shortages of a number of different health care professionals, including pharmacists, but that there is a lack of accurate data on workforce. She stated that the Department has received a Governor's grant to establish the Workforce Data Center. The first year will be devoted to data collection and supply and demand issues related to physicians and nurses. After this other health care professions will be added. Ms. Ryals stated that several staff persons had been hired to begin this work, and an advisory council had been established to assist the Department. There had been one meeting of the advisory council, with a presentation at that meeting by the University of North Carolina Shepps Center's, NC Health Professions Data Center which provided information and recommendations to the Department and advisory council.

LEGISLATION UPDATE:

Bobby Ison provided the Board with a copy of a draft legislative proposal that VSHP will be seeking to allow hospital pharmacies to place certain multidose containers of other than oral medications into automated dispensing devices. He stated that this is being requested particularly for insulin because it is a more organized way of storing the various insulin products and assists the nurse in selecting the correct type to administer. The Board members did not express any concerns with this initiative.

REGULATION UPDATE:

Ms. Yeatts provided an update on the status of regulation processes of the Board.

- Change in Renewal Dates

The Board has emergency regulations with the changed expiration dates for facilities in effect until 9/22/09 and is currently in the NOIRA phase of adopting permanent replacements. The Board will be adopting proposed regulations later in this meeting, and there were no comments received on the NOIRA.

- Drug Donation Program

The Board has emergency regulations undergoing review by the Secretary of HHR.

- Standards of Conduct

The Board has completed the NOIRA phase for defining "unprofessional conduct" and now needs to adopt proposed regulations later in this meeting.

- Proposed regulations from periodic review

The Board is in a public comment period, and the public hearing was held earlier today. The Board at its next meeting will review and respond to public comments and adopt final regulations.

- Nuclear pharmacy fast-track rules

Regulations to conform the Board's regulations on nuclear pharmacies to new regulations of the Virginia Department of Health became effective on 12/11/08.

ADOPT PROPOSED REGULATIONS ON CHANGING EXPIRATION DATES FOR FACILITIES:

The Board reviewed proposed regulations on changing expiration dates for most facilities to 2/28 annually and pharmacies and non-resident pharmacies to 4/30 annually. There were no changes made to the emergency regulations currently in effect.

Motion:

The Board voted unanimously to adopt as proposed regulations, the current language in the emergency regulations changing expiration dates and as included in the agenda package. (motion by Beckner, second by Stredler) Attachment 1.

ADOPT PROPOSED REGULATIONS ON UNPROFESSIONAL CONDUCT:

The Board reviewed draft proposed regulations that had been recommended by the regulation committee and sent for comment to the various pharmacy associations. The regulation committee received no negative comments from any of the associations.

Motion:

The Board voted unanimously to adopt as proposed regulations defining unprofessional conduct the draft presented in the agenda package and as recommended by the regulation committee. (motion by Stredler, second by Ross) Attachment 2.

INTERPRETATION OF 54.1-3434.1, NON-RESIDENT PHARAMCIES, NEW PIC REQUIREMENT:

Ms. Russell advised the Board that she has received a number of applications with requests for the designated Virginia licensed pharmacist be allowed to be the Virginia PIC for multiple pharmacies. She has also received applications in which the Virginia licensed pharmacist who has been designated as PIC is not actively engaged in the practice of pharmacy at the pharmacy location and in fact may reside in another state. One example was an application for a pharmacy in Iowa, where the Virginia licensed PIC resides in Florida. She asked that the Board consider whether it wanted to apply the same standards to non-resident pharmacies as are applicable to resident pharmacies with respect to the PIC. With Virginia pharmacies, a pharmacist may not be PIC for more than two pharmacies (18 VAC 110-20-110), and must be actively engaged in the practice of pharmacy at the address of the pharmacy (§ 54.1-3434).

Ms. Russell also stated that she had been asked to waive the Virginia licensed pharmacist requirements entirely based on a limited scope of pharmacy services. Board counsel advised that

the Board could not provide a waiver for having a PIC licensed in Virginia because the Board does not have the authority to waive a statute.

Motion:

The Board voted unanimously to apply the same standard to non-resident pharmacy PICs as it does to resident pharmacy PICs, that is a pharmacist may not be PIC for more than two pharmacies, whether resident or non-resident, and the Virginia-licensed pharmacist designated as PIC of the non-resident pharmacy must be fully engaged in the practice of pharmacy at the location designated on the application. (motion by Ison, second by Stredler)

REQUEST FOR APPROVAL OF THE ExCPT EXAMINATION:

The Institute for Certification of Pharmacy Technicians (ICPT) requested that its Examination for Certification of Pharmacy Technicians (ExCPT) be approved by the Board of Pharmacy as a second approved examination that applicants could take in order to be registered as a pharmacy technician in Virginia. ICPT provided sufficient documentation to show that its examination meets the criteria set forth in 18 VAC 110-20-103. Rebecca Rabbit, Executive Director of ICPT, was present at the meeting. Ms. Russell stated that she received over 40 letters supporting the approval of this examination. Ms. Russell stated that with this examination, as with the Board's own examination, candidates would have to also complete a Board-approved training program.

Motion:

The Board voted 8 to 1 to approve the ExCPT examination as a Board approved examination pursuant to 18 VAC 110-20-103. Mr. Ison voted no. (motion by Beckner, second by Stredler)

2009 MEETING CALENDAR:

The dates for Board meetings for 2009 were set as follows:

- Wednesday, March 11, 2009
- Wednesday, June 10, 2009
- Wednesday, September 2, 2009
- Wednesday, December 16, 2009

BOARD OF HEALTH PROFESSIONS REPORT:

Jennifer Edwards advised the Board that the Board of Health Professions was meeting on December 17, 2008, and that it had not met since the last meeting of the Board of Pharmacy. She will be reporting on BHP at the March meeting of the Board of Pharmacy.

EXECUTIVE DIRECTOR'S REPORT:

- Contract with SMT for pharmacy technician examination

Ms. Russell reported that the Department entered into a new contract for the Board developed examination for pharmacy technicians. The previous contract expired June 30, 2008, but ICPT, the current contractor, had graciously agreed to extend the

current contract for six months to provide time to go through the competitive bidding process. A Request for Proposals was issued last spring, and four proposals were received. A committee comprised of Mr. Kozera, Mr. Yi, Caroline Juran, and herself, reviewed and scored the proposals. The contract was awarded to Schroeder Measurement Technologies (SMT) who will begin the examination administration on January 1, 2009. All needed data has been transferred from the current contractor, and SMT is on target to provide services the first of January.

- NABP News

Ms. Russell advised the Board that the November Board and NABP e-newsletter had gone out to all licensees and was on the website. She gave an update on recent NABP meetings including District II and the Fall Symposium.

- Renewal

Ms. Russell stated that the Board is currently in a renewal cycle for all pharmacists, pharmacy technicians and dispensing physicians. She stated that at the same time renewal notices were mailed out, new licenses were mailed to all facilities showing the extended expiration dates as well as an explanation as to the new date.

- PMP

Ms. Russell advised that Mr. Orr was not available to give a presentation that day on the prescription monitoring program. She stated that the PMP broke a record with 450 requests in one day the previous week.

Motion:

The Board voted unanimously to recognize Ralph Orr, Director for the Prescription Monitoring Program, for the excellent work he has done in implementing and promoting the PMP. (motion by Beckner, second by Edwards)

- Disciplinary and Licensing Report

Ms. Reiniers-Day presented the Board's disciplinary caseload report as of December 9, 2008, and stated for patient care cases only there were 19 cases with 3 Priority B cases and 16 Priority C cases. For all BOP cases, there were 57 cases at the enforcement level, 68 cases at the probable cause level, 17 cases at the informal conference level, 1 case at the formal hearing level and 3 cases at the APD level.

Further, Ms. Reiniers-Day presented the Board's licensure report for the time period September 3, 2008, through December 9, 2008. The Board issued 20 controlled substance registration certificates for a total of 1,672; 12 medical equipment supplier permits for a total of 421; 6 non-resident pharmacy permits for a total of 541; 14 non-resident wholesale distributor permits for a total of 620; 1 non-restricted manufacturer for a total of 23; 1 permitted physician license for a total of 14; 22 pharmacy permits for a total of 1,663; 179 pharmacy intern registrations for a total of 1,494; 21 physician

selling controlled substance certificates for a total of 283; 1 restricted manufacturer permit for a total of 73; 1 warehouser permit for a total of 42; and 2 wholesale distributor permits for a total of 126. Additionally, she reported that both pharmacist licenses and pharmacy technician registrations exceed 10,000, in that 190 pharmacist licenses were issued with a total of 10,096, and 420 pharmacy technician registrations were issued for a total of 10,251.

APPROVAL OF CONSENT ORDERS:

Motion for closed meeting: The Board voted unanimously, to enter into closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia for the purpose of deliberation to reach a decision regarding two Consent Orders. Additionally, he moved that Cathy Reiniers-Day, Scotti Russell and Howard Casway attend the closed meeting because their presence was deemed necessary and would aid the Board in its deliberation. (motion by Stredler, second by Yi)

Motion to certify the purpose of the closed meeting: The Board voted unanimously, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting. (motion by Stredler, second by Yi)

Motion: **The Board voted unanimously to accept the consent orders as presented by Ms. Reiniers-Day in the matters of Ian Cooper, pharmacist, and April Cofer, pharmacy technician. (motion by Beckner, second by Yi)**

ADJOURN: With all business concluded, the meeting adjourned at 12:15 p.m.

Elizabeth Scott Russell
Executive Director

David C. Kozera, Board Chairman

Date

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Project 1311 - Proposed

BOARD OF PHARMACY

Changes in renewal dates for pharmacies and permitted facilities

18VAC110-20-20. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Unless otherwise provided, any fees for taking required examinations shall be paid directly to the examination service as specified by the board.

C. Initial application fees.

1. Pharmacist license	$180
2. Pharmacy intern registration	$15
3. Pharmacy technician registration	$25
4. Pharmacy permit	$270
5. Permitted physician licensed to dispense drugs	$270
6. Medical equipment supplier permit	$180
7. Humane society permit	$20
8. Nonresident pharmacy	$270
9. Controlled substances registrations ~~(Between November 2, 2005, and December 31, 2006, the application fee for a controlled substance registration shall be $50)~~	$90
10. Robotic pharmacy system approval	$150
11. Innovative program approval.	$250
If the board determines that a technical consultant is required in order to make a decision on approval, any consultant fee, not to exceed the actual cost, shall also be paid by the applicant in addition to the application fee.	
12. Approval of a pharmacy technician training program	$150
13. Approval of a continuing education program	$100

D. Annual renewal fees.

1. Pharmacist active license – due December 31	$90
2. Pharmacist inactive license – due December 31	$45
3. Pharmacy technician registration – due December 31	$25
4. Pharmacy permit – due April 30	$270
5. Physician permit to practice pharmacy – due February 28	$270
6. Medical equipment supplier permit – due February 28	$180
7. Humane society permit – due February 28	$20
8. Nonresident pharmacy – due April 30	$270
9. Controlled substances registrations – due February 28	$90

10. Innovative program continued approval based on board order not to exceed $200 per approval period.

E. Late fees. The following late fees shall be paid in addition to the current renewal fee to renew an expired license within one year of the expiration date. In addition, engaging in activities requiring a license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board.

1. Pharmacist license	$30
2. Pharmacist inactive license	$15
3. Pharmacy technician registration	$10
4. Pharmacy permit	$90
5. Physician permit to practice pharmacy	$90
6. Medical equipment supplier permit	$60
7. Humane society permit	$5
8. Nonresident pharmacy	$90
9. Controlled substances registrations	$30

F. Reinstatement fees. Any person or entity attempting to renew a license, permit, or registration more than one year after the expiration date shall submit an application for reinstatement with any required fees. Reinstatement is at the discretion of the board and, except for reinstatement following license revocation or suspension, may be granted by the executive director of the board upon completion of an application and payment of any required fees.

1. Pharmacist license	$210
2. Pharmacist license after revocation or suspension	$500
3. Pharmacy technician registration	$35
4. Pharmacy technician registration after revocation or suspension	$125
5. Facilities or entities that cease operation and wish to resume shall not be eligible for reinstatement but shall apply for a new permit or registration. Facilities or entities that failed to renew and continued to operate for more than one renewal cycle shall pay the current and all back renewal fees for the years in which they were operating plus the following reinstatement fees:	
a. Pharmacy permit	$240
b. Physician permit to practice pharmacy	$240
c. Medical equipment supplier permit	$210
d. Humane society permit	$30
e. Nonresident pharmacy	$115
f. Controlled substances registration	$180

G. Application for change or inspection fees for facilities or other entities.

1. Change of pharmacist-in-charge	$50
2. Change of ownership for any facility	$50
3. Inspection for remodeling or change of location for any facility	150

4. Reinspection of any facility	$150
5. Board-required inspection for a robotic pharmacy system	$150
6. Board-required inspection of an innovative program location	$150
7. Change of pharmacist responsible for an approved innovative program	$25

H. Miscellaneous fees.

1. Duplicate wall certificate	$25
2. Returned check	$35

~~I. For the annual renewal due on or before December 31, 2006, the following fees shall be imposed for a license, permit or registration:~~

~~1. Pharmacist active license~~	~~$50~~
~~2. Pharmacist inactive license~~	~~$25~~
~~3. Pharmacy technician registration~~	~~$15~~
~~4. Pharmacy permit~~	~~$210~~
~~5. Physician permit to practice pharmacy~~	~~$210~~
~~6. Medical equipment supplier permit~~	~~$140~~
~~7. Humane society permit~~	~~$20~~
~~8. Nonresident pharmacy~~	~~$210~~
~~9. Controlled substances registrations~~	~~$50~~

18VAC110-50-20. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Initial application fees.

1. Nonrestricted manufacturer permit	$270
2. Restricted manufacturer permit	$180
3. Wholesale distributor license	$270
4. Warehouser permit	$270
5. Nonresident wholesale distributor	$270
6. Controlled substances registration	$90

C. Annual renewal fees shall be due on February 28 of each year.

1. Nonrestricted manufacturer permit	$270
2. Restricted manufacturer permit	$180
3. Wholesale distributor license	$270
4. Warehouser permit	$270
5. Nonresident wholesale distributor	$270
6. Controlled substances registration	$90

D. Late fees. The following late fees shall be paid in addition to the current renewal fee to renew an expired license within one year of the expiration date. In addition, engaging in activities requiring a

license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board.

1. Nonrestricted manufacturer permit	$90
2. Restricted manufacturer permit	$60
3. Wholesale distributor license	$90
4. Warehouser permit	$90
5. Nonresident wholesale distributor	$90
6. Controlled substances registration	$30

E. Reinstatement fees.

1. Any entity attempting to renew a license, permit, or registration more than one year after the expiration date shall submit an application for reinstatement with any required fees. Reinstatement is at the discretion of the board and, except for reinstatement following license revocation or suspension, may be granted by the executive director of the board upon completion of an application and payment of any required fees.

2. Engaging in activities requiring a license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board. Facilities or entities that cease operation and wish to resume shall not be eligible for reinstatement, but shall apply for a new permit or registration.

3. Facilities or entities that failed to renew and continued to operate for more than one renewal cycle shall pay the current and all back renewal fees for the years in which they were operating plus the following reinstatement fees:

a. Nonrestricted manufacturer permit	$240
b. Restricted manufacturer permit	$210
c. Wholesale distributor license	$240
d. Warehouser permit	$240
e. Nonresident wholesale distributor	$240
f. Controlled substances registration	$180

F. Application for change or inspection fees.

1. Reinspection fee	$150
2. Inspection fee for change of location, structural changes, or security system changes	$150
3. Change of ownership fee	$50
4. Change of responsible party	$50

G. The fee for a returned check shall be $35.

~~H. For the annual renewal due on or before December 31, 2006, the following fees shall be imposed for a license or permit:~~

~~1. Nonrestricted manufacturer permit~~	~~$210~~
~~2. Restricted manufacturer permit~~	~~$140~~
~~3. Wholesale distributor license~~	~~$210~~
~~4. Warehouser permit~~	~~$210~~
~~5. Nonresident wholesale distributor~~	~~$210~~

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Project 1341 - Proposed

BOARD OF PHARMACY
Standards of conduct

18VAC110-20-25. Unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-3316 of the Code of Virginia:

1. Failing to comply with provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records or related to provision of patient records to another practitioner or to the patient or his personal representative;

2. Willfully or negligently breaching the confidentiality of a patient, unless otherwise required or permitted by applicable law;

3. Failing to maintain confidentiality of information received from the Prescription Monitoring Program, obtaining such information for reasons other than to assist in determining the validity of a prescription to be filled, or misusing information received from the program;

4. Engaging in disruptive or abusive behavior in a pharmacy or other health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient;

5. Engaging or attempting to engage in a relationship with a patient that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a patient or his family, including but not limited to sexual misconduct with a patient, or other conduct that results or could result in personal gain at the expense of the patient;

6. Failing to maintain adequate safeguards against diversion of controlled substances;

7. Failing to appropriately respond to a known dispensing error in a manner that protects the health and safety of the patient;

8. Delegating a task within the practice of pharmacy to a person who is not adequately trained to perform such a task;

9. Failing by the PIC to ensure that pharmacy interns and pharmacy technicians working in the pharmacy are registered, and that such registration is current;

10. Failing to exercise professional judgment in determining whether a prescription meets requirements of law before dispensing.

DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF SPECIAL CONFERENCE COMMITTEE

Wednesday, December 17, 2008
Second Floor
Board Room 3

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

CALL TO ORDER:	A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 1:00 p.m.
PRESIDING:	David C. Kozera, Committee Chairman
MEMBERS PRESENT:	Leo H. Ross
STAFF PRESENT:	Cathy M. Reiniers-Day, Deputy Executive Director Mykl D. Egan, DHP Adjudication Specialist
TAMMIE L. LARD Pharmacist Applicant	Tammie L. Lard appeared with Helene Anderson-Grant, HPIP Case Manager, to discuss her application for licensure as a pharmacist and allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the December 10, 2008 Notice.
Closed Meeting:	Upon a motion by Mr. Ross and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A.(28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Tammie L. Lard. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.
Reconvene:	Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting.
Decision:	Upon a motion by Mr. Ross, and duly seconded by Mr. Kozera, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to approve Ms. Lard's application for licensure with certain terms and conditions.

As provided by law, this decision shall become a final Order thirty (30) days after service of such Order on Ms. Lard, unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Lard within such time. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

DAVID A. WILKEY
License Number 0202-012382

David A. Wilkey appeared with Helene Anderson-Grant, HPIP Case Manager, to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the October 30, 2008 Notice.

Closed Meeting:

Upon a motion by Mr. Ross and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A(28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of David A. Wilkey. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

Reconvene:

Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting and announced the decision.

Decision:

Upon a motion by Mr. Ross, and duly seconded by Mr. Kozera, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to offer Mr. Wilkey a Consent Order for the indefinite suspension of his pharmacist license.

(This Consent Order shall be effective upon endorsement by Mr. Wilkey and the Board of the findings of fact, conclusions of law, and terms of the Consent Order.)

ADJOURN:

With all business concluded, the meeting adjourned at 5:50 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

David C. Kozera

Date

15

DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF INFORMAL CONFERENCE COMMITTEE

Wednesday, January 7, 2009
Second Floor
Board Room 4

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

CALL TO ORDER: A meeting of an informal conference committee of the Board of Pharmacy was called to order at 1:00 pm.

PRESIDING: John O. Beckner, Committee Chairman

MEMBERS PRESENT: Jennifer H. Edwards

STAFF PRESENT: Cathy M. Reiniers-Day, Deputy Executive Director
Mykl D. Egan, DHP Adjudication Specialist

RITE AID CORPORATION: Michael Podgurski, Vice President of Pharmacy Services; Dan Miller, Vice President Pharmacy Operations; and Karen Stanforth, Pharmacy Regional Vice President, appeared to discuss allegations that Rite Aid Corporation may have violated certain laws and regulations governing the practice of pharmacy as stated in the October 24, 2008, Notice.

Closed Meeting: Upon a motion by Ms. Edwards and duly seconded by Mr. Beckner, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A.(28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Rite Aid Corporation. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting would aid the Committee in its deliberations.

Reconvene: Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting.

Decision: Upon a motion by Ms. Edwards, and duly seconded by Mr. Beckner, the Committee adopts the Findings of Facts and Conclusions of Law and unanimously voted to offer a Consent Order to Rite Aid Corporation subject to terms and conditions to include a monetary penalty of Fifty Thousand Dollars ($50,000.00) as more fully set forth in the Consent Order.

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(This Consent Order shall be effective upon endorsement by Rite Aid Corporation and the Board of the findings of fact, conclusions of law, and terms of the Consent Order.)

ADJOURN: With all business concluded, the meeting adjourned at 2:55pm.

Cathy M. Reiniers-Day
Deputy Executive Director

John O. Beckner, Committee Chairman

Date

DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF SPECIAL CONFERENCE COMMITTEE

Tuesday, January 13, 2009
Second Floor
Board Room 1

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

CALL TO ORDER:	A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 9:00 a.m.
PRESIDING:	David C. Kozera, Committee Chairman
MEMBERS PRESENT:	Brandon K. Yi
STAFF PRESENT:	Cathy M. Reiniers-Day, Deputy Executive Director Mykl D. Egan, DHP Adjudication Specialist
CHRISSIE V. SHIRLEY License Number 0202-207164	Chrissie V. Shirley appeared with Michael L. Goodman, her attorney, to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the November 6, 2008, Notice.
Closed Meeting:	Upon a motion by Mr. Yi and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A.(28) of the Code of Virginia, ("Code"), for the purpose of deliberation to reach a decision in the matter of Chrissie V. Shirley. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.
Reconvene:	Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting.
Decision:	Upon a motion by Mr. Yi, and duly seconded by Mr. Kozera, the Committee unanimously voted to close this case as undetermined.
JANET G. KOZELLA Registration Number 0202-207164	Janet G. Kozella appeared to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy technicians as stated in the November 6, 2008, Notice.
Closed Meeting:	Upon a motion by Mr. Yi and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A.(28) of the Code, for the purpose of deliberation to reach a decision in the matter of

Janet G. Kozella. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

Reconvene: Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting.

Decision: Upon a motion by Mr. Yi, and duly seconded by Mr. Kozera, the Committee unanimously voted to close this case as undetermined.

TAMMIE R. CREGGER
Registration Number 0230-011984

Tammie R. Cregger appeared to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy technicians as stated in the December 19, 2008, Notice.

Closed Meeting: Upon a motion by Mr. Yi and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A(28) of the Code, for the purpose of deliberation to reach a decision in the matter of Tammie R. Cregger. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

Reconvene: Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting and announced the decision.

Decision: Upon a motion by Mr. Yi, and duly seconded by Mr. Kozera, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to issue Ms. Cregger a reprimand and impose a monetary penalty of One Hundred Dollars ($100).

As provided by law, this decision shall become a final Order thirty (30) days after service of such Order on Ms. Cregger, unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Cregger within such time. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

FRANCIS J. BRICHTER
License Number 0202-006010

Francis J. Brichter appeared with B. J. Leiderman, advocate, to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the December 22, 2008, Notice.

Closed Meeting:

Upon a motion by Mr. Yi and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A(28) of the Code, for the purpose of deliberation to reach a decision in the matter of Francis J. Brichter. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

Reconvene:

Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting and announced the decision.

Decision:

Upon a motion by Mr. Yi, and duly seconded by Mr. Kozera, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to issue Mr. Brichter a reprimand and subject his license to certain terms and conditions.

As provided by law, this decision shall become a final Order thirty (30) days after service of such Order on Mr. Brichter, unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Brichter within such time. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

MICHELLE ROMATOWSKI
Registration Number 0230-010789

Michelle Romatowski appeared to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the December 22, 2008, Notice.

Closed Meeting:

Upon a motion by Mr. Yi and duly seconded by Mr. Kozera, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A(28) of the Code, for the purpose of deliberation to reach a decision in the matter of Michelle Romatowski. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

Reconvene: Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting and announced the decision.

Decision: Upon a motion by Mr. Yi, and duly seconded by Mr. Kozera, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to issue an Order requiringA Ms. Romatowski to comply with her HPIP contract.

As provided by law, this decision shall become a final Order thirty (30) days after service of such Order on Ms. Romatowski, unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Romatowski within such time. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURN: With all business concluded, the meeting adjourned at 4:45 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

David C. Kozera

Date

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DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF TELEPHONE CONFERENCE CALL

Tuesday, February 17, 2009

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

Orders/Consent Orders referred to in these minutes are available upon request

TIME & PURPOSE: Pursuant to § 54.1-2400(13) of the Code of Virginia, a telephone conference call of the Virginia Board of Pharmacy was held at 8:35 a.m., on February 17, 2009, to consider the to consider the summary suspension of the registration of Dedra R. Michaelis, to practice as a pharmacy technician.

PRESIDING: David C. Kozera, Chairman

MEMBERS PRESENT:
Gill Abernathy
John Beckner
Willie Brown
Bobby Ison
Michael E. Stredler
Brandon Yi

STAFF PRESENT:
Elizabeth Scott Russell, Executive Director
Cathy M. Reiniers-Day, Deputy Executive Director
Elizabeth M. Revere, Disciplinary Program Specialist
Howard Casway, Senior Assistant Attorney General
William Clay Garrett, Assistant Attorney General
Mykl Egan, DHP Adjudication Specialist

POLL OF MEMBERS: The Board members were polled as to whether they could have attended a regular meeting at the office in a timely manner for the purpose of hearing evidence in a possible summary suspension case. The Board members stated that they would not have been able to attend.

With six members participating and four members unable to participate, it was established that a quorum could not have been convened in a regular meeting to consider these matters.

DEDRA R. MICHAELIS
Registration Number 0230-004646

Mr. Garrett presented a summary of the evidence in this case.

Decision: Upon a motion by Mr. Beckner, and duly seconded by Mr. Brown, the Panel unanimously voted that with the evidence presented, the practice as a pharmacy technician by Dedra R. Michaelis, poses a substantial danger to the public; and therefore, that the registration of Dedra R. Michaelis, to practice as a pharmacy technician be summarily suspended; and that a Consent Order be offered to Ms. Michaelis for the revocation of her registration in lieu of a hearing.

ADJOURN: With all business concluded, the conference call adjourned at 8:41a.m.

Elizabeth M. Revere
Disciplinary Program Specialist

Cathy M. Reiniers-Day
Deputy Executive Director

David C. Kozera, Chairman

Date

DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF SPECIAL CONFERENCE COMMITTEE

Tuesday, February 17, 2009
Second Floor
Board Room 3

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

CALL TO ORDER:	A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 1:00 p.m.
PRESIDING:	Leo H. Ross, Committee Chairman
MEMBERS PRESENT:	John O. Beckner
STAFF PRESENT:	Cathy M. Reiniers-Day, Deputy Executive Director Mykl D. Egan, DHP Adjudication Specialist
RIMA SHURBAJI License Number 0202-206984	Rima Shurbaji appeared with Michael L. Goodman, her attorney, to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the January 15, 2009, Notice.
Closed Meeting:	Upon a motion by Mr. Beckner and duly seconded by Mr. Ross, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A.(28) of the Code of Virginia, ("Code"), for the purpose of deliberation to reach a decision in the matter of Rima Shurbaji. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.
Reconvene:	Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting.
Decision:	Upon a motion by Mr. Beckner, and duly seconded by Mr. Ross, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to Order Ms. Shurbaji to successfully complete two (2) additional hours of continuing pharmacy education in

the subject of pediatric medication errors and a one (1) year term to provide the Board with information regarding any medication errors for which she is responsible.

As provided by law, this decision shall become a final Order thirty (30) days after service of such Order on Ms. Shurbaji, unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Shurbaji within such time. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

JASON A. STROSNIDER
License Number 0202-010456

Jason A. Strosnider appeared to discuss his petition for reinstatement of his pharmacist license and to review allegations that he may have violated portions of the Board's laws and regulations as stated in the January 15, 2009, Notice.

Closed Meeting:

Upon a motion by Mr. Beckner, and duly seconded by Mr. Ross, the Committee unanimously voted to convene a closed meeting pursuant to § 2.2-3711.A(28) of the Code, for the purpose of deliberation to reach a decision in the matter of Jason A. Strosnider. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations.

Reconvene:

Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the Code, the Committee re-convened in open meeting and announced the decision.

Decision:

Upon a motion by Mr. Beckner, and duly seconded by Mr. Ross, the Committee made certain Findings of Facts and Conclusions of Law and unanimously voted to deny Mr. Strosnider's application for reinstatement of his pharmacist license.

As provided by law, this decision shall become a final Order thirty (30) days after service of such Order on Mr. Strosnider, unless a written request to the Board for a formal hearing on the allegations made against him is

received from Mr. Shrosnider within such time. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURN: With all business concluded, the meeting adjourned at 4:45 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

Leo H. Ross, Committee Chairman

Date

Board of Pharmacy
Report of the 2009 General Assembly

HB 1601 Administration of prescription drugs; expands authority of persons allowed to administer.

Summary as introduced:
Administration of prescription drugs. Expands authority of persons who have completed a training course approved by the Board of Nursing to allow administration of prescription drugs, in compliance with the prescriber's instructions and in accordance with regulations promulgated by the Board of Pharmacy, where the drugs would normally be self-administered by an individual receiving services in a program licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. Such authority was previously limited to administration of drugs that would normally be self-administered by a resident of a facility licensed or certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Patron: Hamilton

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB1601ER)
02/18/09 House: Impact statement from DPB (HB1601ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

HB 1852 Health Professions, Department of; confidentiality of investigations.

Summary as passed House:
Department of Health Professions; investigations. Provides that, when a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, a copy of the complaint or report shall be provided to the person who is the subject of the complaint or report prior to any interview of the person who is the subject of the complaint or report or at the time the person who is the subject of the complaint or report is notified of the complaint or report, whichever shall occur first, unless provision of the complaint or report to the person would materially obstruct a criminal or regulatory investigation. This bill clarifies that requirements related to confidentiality of information obtained during an investigation or disciplinary proceeding shall not prohibit investigative staff from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses a copy of records or other supporting documentation necessary to refresh the fact witness's recollection.

Patrons: Morrissey, BaCote, Eisenberg, Hall and Ward

02/17/09 House: Placed on Calendar
02/18/09 House: Senate amendment agreed to by House (98-Y 0-N)
02/18/09 House: VOTE: --- ADOPTION (98-Y 0-N)
02/23/09 House: Bill text as passed House and Senate (HB1852ER)
02/24/09 House: Impact statement from DPB (HB1852ER)

HB 1943 Optometrists; those licensed may sell contact lenses & allowed to dispense ophthalmic devices. (33-35)

Summary as passed House:
Optometrists; contact lenses and ophthalmic devices. Provides that it shall be unlawful for anyone other than a licensed optometrist with a contact lens endorsement or a licensed optician to sell contact lenses. This bill provides that it shall be unlawful for anyone other than a licensed optometrist to dispense, administer, or sell an ophthalmic device containing a Schedule III, IV, or VI controlled substance or other medication, except that a licensed pharmacist may dispense such device upon the written and valid prescription of an optometrist. This bill is identical to SB 1075.

Patrons: Peace, Amundson, Armstrong, Caputo, Crockett-Stark, Hall, Hamilton, Hargrove, Hugo, Janis, Loupassi, Mathieson,

Merricks, Nutter, Phillips, Pogge, Rust, Shannon, Shuler, Sickles, Spruill and Vanderhye

02/17/09 House: Placed on Calendar
02/18/09 House: Senate substitute agreed to by House 094149676-S1 (98-Y 0-N)
02/18/09 House: VOTE: --- ADOPTION (98-Y 0-N)
02/23/09 House: Bill text as passed House and Senate (HB1943ER)
02/24/09 House: Impact statement from DPB (HB1943ER)

HB 1986 Medication aide training programs; requirements therefor.

Summary as passed House:
Medication aide training programs; required registration delayed. Sets forth requirements for Board of Nursing approved education and training programs for medication aides, and provides that any person who has successfully completed a training program approved by the Board of Nursing may administer medications that would normally be self administered to residents of an assisted living facility until August 1, 2009. This bill also delays enforcement of the requirement for medication aides to be registered until August 1, 2009, and is effective retroactively to January 1, 2009. This bill is identical to SB 1032.

Patrons: O'Bannon and Hamilton

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB1986ER)
02/18/09 House: Impact statement from DPB (HB1986ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

HB 2058 Dentistry, Board of; recovering monitoring costs.

Summary as introduced:
Board of Dentistry; recovering monitoring costs. Allows the Board of Dentistry to recover from any licensee against whom disciplinary action has been imposed reasonable administrative costs associated with investigating and monitoring such licensee and confirming compliance with any terms and conditions imposed upon the licensee as set forth in the order imposing disciplinary action. Such recovery shall not exceed a total of $5,000.

Patron: Hamilton

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB2058ER)
02/18/09 House: Impact statement from DPB (HB2058ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

HB 2097 Animal shelter and pounds; allowed to purchase, etc., certain controlled substances for euthanizing. (36-37)

Summary as introduced:
Animal shelters and pounds; administration of certain medications. Allows the Board of Pharmacy to register an animal shelter or pound to purchase, possess, and administer certain Schedule II-VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals; and to purchase, possess, and administer certain Schedule VI controlled substances for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter or pound. This bill is identical to SB 897.

Patrons: Orrock and Cosgrove

02/18/09 Senate: Engrossed by Senate as amended

02/18/09 Senate: Passed Senate with amendment (40-Y 0-N)
02/19/09 House: Placed on Calendar
02/20/09 House: Senate amendment agreed to by House (98-Y 0-N)
02/20/09 House: VOTE: --- ADOPTION (98-Y 0-N)

HB 2211 Prescription Monitoring Program; disclosure of information. (38 - 39)

Summary as passed House:
Prescription Monitoring Program; disclosure of information. Removes requirement that a prescriber obtain written consent from the recipient of a prescription before requesting information on that recipient for the purpose of establishing his treatment history, and authorizes a prescriber authorized to access information in the possession of the Prescription Monitoring Program to delegate such authority to up to two health care professionals who are licensed, registered or rectified by a health regulatory board and employed at the same facility under the direct supervision of the prescriber. This bill incorporates HB 2259.

Patron: Jones

02/11/09 Senate: Referred to Committee on Education and Health
02/19/09 Senate: Reported from Education and Health (15-Y 0-N)
02/20/09 Senate: Constitutional reading dispensed (39-Y 0-N)
02/23/09 Senate: Read third time
02/23/09 Senate: Passed Senate (40-Y 0-N)

HB 2212 Automated drug dispensing systems; allows drugs in multi-dose packaging to be placed therein. (40)

Summary as introduced:
Automated drug dispensing systems; multi-dose packaging. Allows drugs in multi-dose packaging, other than those administered orally, to be placed in an automated drug dispensing device if approved by the pharmacist-in-charge in consultation with a standing hospital committee comprised of pharmacy, medical, and nursing staff.

Patron: Jones

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB2212ER)
02/18/09 House: Impact statement from DPB (HB2212ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

HB 2214 Bulk donation programs; pharmacy may charge reasonable dispensing or administrative fee. (41-42)

Summary as introduced:
Pharmacies; bulk donation programs. Provides that a pharmacy participating in bulk donation programs may charge a reasonable dispensing or administrative fee to offset the cost of dispensing donated medications, not to exceed the actual costs of such dispensing.

Patrons: Jones and Rust

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB2214ER)
02/18/09 House: Impact statement from DPB (HB2214ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

HB 2352 Donation of prescription medication; clarifies liability of pharmaceutical manufacturers. (43-44)

Summary as passed House:
Donation of prescription medication; liability of pharmaceutical manufacturers. Clarifies the liability of pharmaceutical manufacturers relating to storage, donation, acceptance, or dispensing of any drug in accordance with the Prescription Drug Donation Program. This bill also provides that unused prescription drugs dispensed for use by person covered under the Medicaid program may be donated unless such donation is prohibited.

Patron: Landes

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB2352ER)
02/18/09 House: Impact statement from DPB (HB2352ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

HB 2405 Health Professions, Department of; may release information for determining shortage designations.

Summary as passed:
Department of Health Professions; submission of information. Expands the requirement to submit certain information to the Department of Health Professions to anyone applying for initial licensure, certification, or registration, and individuals licensed, certified, or registered by a health regulatory board. Also the bill allows the Department, and the Board of Nursing, to release any information for the purposes of determining shortage designations and to qualified personnel if pertinent to an investigation, research, or study, provided a written agreement between such qualified personnel and the Department, which ensures that any person to whom such information is divulged shall preserve the confidentiality of the information, is executed.

Patrons: Tyler and Amundson

02/17/09 House: Placed on Calendar
02/18/09 House: Senate amendments agreed to by House (98-Y 0-N)
02/18/09 House: VOTE: --- ADOPTION (98-Y 0-N)
02/23/09 House: Bill text as passed House and Senate (HB2405ER)
02/24/09 House: Impact statement from DPB (HB2405ER)

HB 2407 Health Practitioners' Intervention Program; revisions, changes name. (45-46

Summary as passed House:
Health Practitioners' Intervention Program; revisions. Changes the name of the Health Practitioners' Intervention Program to the Health Practitioners' Monitoring Program, and clarifies that the purpose of the Program is to monitor impaired health professionals, rather than to intervene or treat them. The bill provides that the Director of the Department of Health Professions shall work together with the Health Practitioner's Monitoring Program to develop contracts necessary for implementation of monitoring services. This bill also expands the membership of the Health Practitioner's Monitoring Program Committee to include a registered nurse engaged in active practice.

Patron: Hall

02/11/09 House: Impact statement from DPB (HB2407H1)
02/19/09 Senate: Reported from Education and Health (15-Y 0-N)
02/20/09 Senate: Constitutional reading dispensed (39-Y 0-N)
02/23/09 Senate: Read third time
02/23/09 Senate: Passed Senate (40-Y 0-N)

HB 2452 Prescription information; confidentiality.

Summary as introduced:
Prescription information; confidentiality. Prohibits any health insurer, self-insured employer, electronic transmission intermediary, pharmacy or other similar entity from licensing, transferring, using, or selling records that include prescription information containing patient-identifiable or prescriber-identifiable data for any commercial purpose.

Patron: Sickles

01/14/09 House: Prefiled and ordered printed; offered 01/14/09 090087736
01/14/09 House: Referred to Committee on Health, Welfare and Institutions
02/03/09 House: Stricken from docket by Health, Welfare and Institutions

HB 2453 Electronic prescribing; Secretary of Health and Human Services, etc. to establish a website. (47)

Summary as passed House:
Electronic prescribing. Requires the Secretary of Health and Human Services, in consultation with the Secretary of Technology, to establish a website with information on electronic prescribing for health practitioners, which shall contain information about the process and advantages of electronic prescribing, the availability of electronic prescribing products, links to federal and private-sector websites that provide guidance on selecting electronic prescribing products, and links to federal and private sector incentive programs for implementing electronic prescribing. The bill requires the Secretary of Health and Human Resources in consultation with the Secretary of Technology to regularly consult with relevant public and private stakeholders to assess and accelerate implementation of electronic prescribing in Virginia. This bill further provides that, beginning in 2010, any health practitioner who contracts with the Commonwealth for the provision of health services will be required to utilize electronic prescribing to the maximum extent practicable. This bill directs the Department of Medical Assistance Services to develop programs and incentives to encourage the adoption of electronic prescribing by Medicaid providers.

Patron: Sickles

02/11/09 Senate: Referred to Committee on Education and Health
02/19/09 Senate: Reported from Education and Health (15-Y 0-N)
02/20/09 Senate: Constitutional reading dispensed (39-Y 0-N)
02/23/09 Senate: Read third time
02/23/09 Senate: Passed Senate (40-Y 0-N)

HB 2482 Prescription donation; clarifies hospital and clinic may redispense donation medication to indigent.

(48)

Summary as introduced:
Prescription donation; hospitals to dispense. Clarifies that hospitals, as well as clinics organized in whole or in part for the delivery of health care services to the indigent, may redispense donation medications to the indigent.

Patrons: Eisenberg, Bowling, Brink, Bulova, Englin, Howell, A.T., Hull, Johnson, Lewis, McClellan, Morrissey, Plum, Pollard, Spruill, Toscano and Watts

02/18/09 House: Enrolled
02/18/09 House: Bill text as passed House and Senate (HB2482ER)
02/18/09 House: Impact statement from DPB (HB2482ER)
02/18/09 House: Signed by Speaker
02/18/09 Senate: Signed by President

SB 1154 Copies of medical bills and charges; no cost to patient up to three times every twelve months.

Summary as passed Senate:
Copies of medical bills and charges; no cost. Provides that a patient%92s account balance or itemized listing of charges maintained by a health care provider shall be supplied at no cost up to three times every twelve months to either the patient or

the patient%92s attorney.

Patron: McDougle

02/13/09 House: Read first time
02/13/09 House: Referred to Committee for Courts of Justice
02/18/09 Senate: Impact statement from DPB (SB1154E)
02/23/09 House: Reported from Courts of Justice with amendments (22-Y 0-N)
02/24/09 House: Read second time

SB 1207 Unused Pharmaceutical Disposal Program; created.

Summary as introduced:
Disposal of unused pharmaceuticals. Establishes a program for the disposal of unused pharmaceuticals.

Patron: Puckett

01/13/09 Senate: Prefiled and ordered printed; offered 01/14/09 098474300
01/13/09 Senate: Referred to Committee on Education and Health
01/15/09 Senate: Assigned Education sub: Health Licensing
01/23/09 Senate: Impact statement from DPB (SB1207)
02/05/09 Senate: Left in Education and Health (15-Y 0-N)

SB 1282 Health Professions, Department of; prohibited from providing personal information of individuals.

Summary as passed Senate:
Department of Health Professions; information concerning health professionals. Provides that the Department of Health Professions shall collect an official address of record that shall not be provided to any private entity for resale to another private entity or to the public. Also provides that the Department provide health professionals the opportunity to provide a second address for the purpose of public dissemination, and that if no second address is provided, the official address shall be made public. The bill also directs the Enterprise Application Public-Private Partnership Office to take appropriate action to prevent the sale of any list of home addresses and other personal information of individuals licensed as health professionals by Virginia Interactive or any other private entity.

Patron: Newman

02/24/09 House: Read third time
02/24/09 House: Committee substitute agreed to 093291280-H1
02/24/09 House: Engrossed by House - committee substitute SB1282H1
02/24/09 House: Passed House with substitute BLOCK VOTE (99-Y 0-N)
02/24/09 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-1706, 54.1-3202, 54.1-3204, and 54.1-3301 of the Code of Virginia, relating to the practice of optometry.

[H 1943]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1706, 54.1-3202, 54.1-3204, and 54.1-3301 of the Code of Virginia are amended and reenacted as follows:

~~§ 54.1-1706. Permissible practices.~~

Notwithstanding the provisions of ~~subdivision~~ *subdivisions* 7 *and 8* of § 54.1-3204, a licensed optician is authorized to prepare and dispense eyeglasses, spectacles, lenses, or related appurtenances, for the intended wearers or users, on prescriptions from licensed physicians or licensed optometrists; duplicate and reproduce previously prepared eyeglasses, spectacles, lenses, or related appurtenances; and, in accordance with such prescriptions, duplications or reproductions, measure, adapt, fit, and adjust eyeglasses, spectacles, lenses, or appurtenances, to the human face. A licensed optician shall not, however, duplicate a contact lens solely from a previously prepared contact lens.

§ 54.1-3202. Exemptions.

This chapter shall not apply to:

1. Physicians licensed to practice medicine by the Board of Medicine or to prohibit the sale of nonprescription eyeglasses and sunglasses~~. Contact lenses shall not be sold as merchandise from a retail business other than one operated by a physician, an optometrist or an optician~~; or

2. Any optometrist rendering free health care to an underserved population in Virginia who (i) does not regularly practice optometry in Virginia, (ii) holds a current valid license or certificate to practice optometry in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care in an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of his license or certification in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any optometrist whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow an optometrist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

§ 54.1-3204. Prohibited acts.

It shall be unlawful for any person:

1. To practice optometry in this Commonwealth without holding a license issued by the Board. Practicing or offering to practice optometry, or the public representation of being qualified to practice the same by any person not authorized to practice optometry, shall be sufficient evidence of a violation of the law.

2. To impersonate a licensed optometrist of like or different name.

3. To buy or sell or fraudulently obtain a diploma or license.

4. To do any act for which if he were an optometrist his license could be revoked as provided by this chapter.

5. To possess any trial lenses, trial frames, graduated test cards, appliances or instruments used in the practice of optometry, self-testing devices or eyeglass vending machines for the purpose of fitting or prescribing glasses in the practice of optometry, unless he is or unless he regularly employs on the premises a licensed optometrist or a licensed physician.

6. To publish or cause to be published in any manner an advertisement that is false, deceptive or misleading, contains a claim of professional superiority or violates regulations of the Board governing advertising by optometrists.

7. To sell, provide, furnish, supply or duplicate eyeglasses, or lenses for the correction of vision without the prescription of a licensed physician or licensed optometrist, unless he is the holder of a

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license to practice optometry or a license to practice medicine under the laws of this Commonwealth.

8. To sell or dispense contact lenses, including plano or cosmetic lenses, without holding a license issued by the Board. This subdivision shall not apply to a licensed optician operating or working in a retail establishment, when selling or dispensing contact lenses, including plano or cosmetic lenses, upon the valid written prescription of an individual licensed to practice medicine or osteopathy, or a licensed optometrist.

9. To dispense, administer, or sell an ophthalmic device containing Schedule III, IV, or VI controlled substances or an over-the-counter medication without holding a license issued by the Board, including TPA certification. An "ophthalmic device" shall mean any device, as defined in the Drug Control Act (§ 54.1-3400 et seq.) customarily used primarily for ophthalmic purposes, including an ophthalmic device classified by the United States Food and Drug Administration as a drug. Nothing in this subsection shall preclude a pharmacist from dispensing an ophthalmic device, as defined in this subsection, upon the written and valid prescription of an optometrist, providing the patient is then advised by the pharmacist to return for follow-up care to the optometrist prescribing the ophthalmic device.

The provisions of this section shall be enforced in accordance with this chapter and § 54.1-2506.

§ 54.1-3301. Exceptions.

This chapter shall not be construed to:

1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any physician acting on behalf of the Virginia Department of Health or local health departments, in the compounding of his prescriptions or the purchase and possession of drugs as he may require;

2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health departments, from administering or supplying to his patients the medicines that he deems proper under the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to §§ 32.1-42.1 and 54.1-3408;

3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34 (§ 54.1-3400 et seq.) of this title;

4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34 (§ 54.1-3400 et seq.) of this title;

5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the regulations of the Board;

6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from purchasing, possessing or administering controlled substances to his own patients or providing controlled substances to his own patients in a bona fide medical emergency or providing manufacturers' professional samples to his own patients;

7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic pharmaceutical agents, from purchasing, possessing or administering those controlled substances as specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own patients those controlled substances as specified in § 54.1-3222 and the TPA formulary, ~~or~~ providing manufacturers' samples of these drugs to his own patients, *or dispensing, administering, or selling ophthalmic devices as authorized in § 54.1-3204*;

8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice setting and a written agreement with a physician or podiatrist;

9. Interfere with any licensed nurse practitioner with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to prescribe according to his practice setting and a written agreement with a physician;

10. Interfere with any legally qualified practitioner of medicine or osteopathy participating in an indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in

118 the program shall not use the donated drug for any purpose other than dispensing to the patient for
119 whom it was originally donated, except as authorized by the donating manufacturer for another patient
120 meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor
121 the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent
122 patient program pursuant to this subdivision. A participating pharmacy may charge a reasonable
123 dispensing or administrative fee to offset the cost of dispensing, not to exceed the comparable allowable
124 fee reimbursed by the Virginia Medicaid program. However, if the patient is unable to pay such fee, the
125 dispensing or administrative fee shall be waived;
126 11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing
127 controlled substances to his own patients in a free clinic without charge when such controlled substances
128 are donated by an entity other than a pharmaceutical manufacturer as authorized by subdivision 10. The
129 practitioner shall first obtain a controlled substances registration from the Board and shall comply with
130 the labeling and packaging requirements of this chapter and the Board's regulations; or
131 12. Prevent any pharmacist from providing free health care to an underserved population in Virginia
132 who (i) does not regularly practice pharmacy in Virginia, (ii) holds a current valid license or certificate
133 to practice pharmacy in another state, territory, district or possession of the United States, (iii) volunteers
134 to provide free health care to an underserved area of this Commonwealth under the auspices of a
135 publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to
136 populations of underserved people, (iv) files a copy of the license or certificate issued in such other
137 jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary
138 provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that
139 such licensure exemption shall only be valid, in compliance with the Board's regulations, during the
140 limited period that such free health care is made available through the volunteer, nonprofit organization
141 on the dates and at the location filed with the Board. The Board may deny the right to practice in
142 Virginia to any pharmacist whose license has been previously suspended or revoked, who has been
143 convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations.
144 However, the Board shall allow a pharmacist who meets the above criteria to provide volunteer services
145 without prior notice for a period of up to three days, provided the nonprofit organization verifies that the
146 practitioner has a valid, unrestricted license in another state.
147 This section shall not be construed as exempting any person from the licensure, registration,
148 permitting and record keeping requirements of this chapter or Chapter 34 of this title.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-3423 and 54.1-3801 of the Code of Virginia and to repeal § 54.1-3425 of the Code of Virginia, relating to authority of animal shelters and pounds to purchase, possess, and administer certain drugs.

[H 2097]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3423 and 54.1-3801 of the Code of Virginia are amended and reenacted as follows:

~~§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to~~ conduct research; application and fees.

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

2. Compliance with applicable state and local law;

3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;

4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research with controlled substances in Schedules II through VI. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A of this section in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping. ~~The first such regulations shall be promulgated within 280 days of the enactment of this provision.~~

E. *The Board may register an animal shelter or pound as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II-VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals; and to purchase, possess, and administer certain Schedule VI controlled substances for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter or pound. The drugs used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs used for treatment and prevention of communicable diseases within the animal shelter or pound shall be determined by the supervising veterinarian of the shelter or pound and the drugs shall be administered*

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only pursuant to written protocols established or approved by the supervising veterinarian of the shelter or pound and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter or pound shall maintain a copy of the approved list of drugs, written protocols for administering, and training records of those persons administering drugs on the premises of the shelter or pound.

F. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

~~F~~ *G.* Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within fourteen days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

§ 54.1-3801. Exceptions.

This chapter shall not apply to:

1. The owner of an animal and the owner's full-time, regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing the requirements of this chapter;

2. Veterinarians licensed in other states called in actual consultation or to attend a case in this Commonwealth who do not open an office or appoint a place to practice within this Commonwealth;

3. Veterinarians employed by the United States or by this Commonwealth while actually engaged in the performance of their official duties; ~~or~~

4. Veterinarians providing free care in underserved areas of Virginia who (i) do not regularly practice veterinary medicine in Virginia, (ii) hold a current valid license or certificate to practice veterinary medicine in another state, territory, district or possession of the United States, (iii) volunteer to provide free care in an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) file copies of their licenses or certificates issued in such other jurisdiction with the Board, (v) notify the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledge, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any veterinarian whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a veterinarian who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state~~.~~*; or*

5. Persons purchasing, possessing, and administering drugs in an animal shelter or pound as defined in § 3.2-6500, provided that such purchase, possession, and administration is in compliance with § 54.1-3423.

2. That § 54.1-3425 of the Code of Virginia is repealed.

3. That an emergency exists and this act is in force from its passage.

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HOUSE BILL NO. 2211

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions)

(Patrons Prior to Substitute—Delegates Jones and Kilgore [HB2259])

House Amendments in [ ] - February 6, 2009

A BILL to amend and reenact § 54.1-2523 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 25.2 of Title 54.1 sections numbered [~~54.1-2521.1,~~] 54.1-2523.2 and 54.1-2526, relating to Prescription Monitoring Program.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2523 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 25.2 of Title 54.1 sections numbered [~~54.1-2521.1,~~] 54.1-2523.2 and 54.1-2526 as follows:

[~~*§ 54.1-2521.1. Prescribing covered substances for more than six months.*~~

~~*Upon prescribing a covered substance for a period of six months or greater, the prescriber of such covered substance may submit a request for information on the recipient for the purpose of determining the validity of the prescription.*~~]

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director.

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 15 of § 2.2-3705.5. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent designated by the superintendent of the Department of State Police to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Intervention Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of this title.

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific dispenser or specific prescriber to an agent of the United States Drug Enforcement Administration with authority to conduct drug diversion investigations.

[~~*5. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of determining the validity of a long-term prescription made to the recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient, and the recipient has been prescribed a covered substance for a period of six months or greater.*~~]

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient~~, and the prescriber has obtained written consent to such disclosure from the recipient~~. *In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.*

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription in accordance with § 54.1-3303 when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices. ~~Dispensers shall provide notice to patients, in a manner specified by the Director in regulation, that such information may be requested by them from the Prescription Monitoring~~

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~~Program.~~ *In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.*

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

~~6. Information relevant to determination of the cause of death of a specific recipient to the designated~~ employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

D. *The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall use the information only for purposes allowed by this chapter.*

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

~~E~~ *F.* Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

§ 54.1-2523.2. Authority to access database.

Any prescriber authorized to access the information in the possession of the Prescription Monitoring Program pursuant to this chapter may, pursuant to regulations promulgated by the Director to implement the provisions of this section, delegate such authority to up to two health care professionals who are (i) licensed, registered, or certified by a health regulatory board under the Department of Health Professions, and (ii) employed at the same facility and under the direct supervision of the prescriber.

§ 54.1-2526. Exemption of information systems from provisions related to the Virginia Information Technology Agency.

The provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 shall not apply to the Prescription Monitoring Program pursuant to this chapter operated by the Department of Health Professions until July 1, 2012, unless an alternate date is mutually agreed upon.

2. That an emergency exists and this act is in force from its passage.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 54.1-3434.02 of the Code of Virginia, relating to automated drug dispensing systems.

[H 2212]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3434.02 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3434.02. Automated drug dispensing systems.

A. Hospitals licensed pursuant to Title 32.1 or Title 37.2 may use automated drug dispensing systems, as defined in § 54.1-3401, upon meeting the following conditions:

1. Drugs are placed in the automated drug dispensing system in a hospital and are under the control of a pharmacy providing services to the hospital;

2. The pharmacist-in-charge of the pharmacy providing services to the hospital has established procedures for assuring the accurate stocking and proper storage of drugs in the automated drug dispensing system and for ensuring accountability for and security of all drugs utilized in the automated drug dispensing system until the time such drugs are removed from the automated drug dispensing system for administration to the patients;

3. Removal of drugs from any automated drug dispensing system for administration to patients can only be made pursuant to a valid prescription or lawful order of a prescriber;

4. Adequate security for automated drug dispensing systems is provided, as evidenced by written policies and procedures, for (i) preventing unauthorized access, (ii) complying with federal and state regulations on prescribing and dispensing controlled substances, (iii) maintaining patient confidentiality, and (iv) assuring compliance with the requirements of this section;

5. Accountability for drugs dispensed from automated drug dispensing systems is vested in the pharmacist-in-charge of a pharmacy located within the hospital or the pharmacist-in-charge of any outside pharmacy providing pharmacy services to the hospital;

6. Filling and stocking of all drugs in automated drug dispensing systems shall be performed under the direction of the pharmacist-in-charge. The task of filling and stocking of drugs into an automated drug dispensing system shall be performed by a pharmacist or a registered pharmacy technician, who shall be an employee of the provider pharmacy and shall be properly trained in accordance with established standards set forth in a policy and procedure manual maintained by the provider pharmacy. The pharmacist stocking and filling the automated drug dispensing system or the pharmacist-in-charge, if the automated drug dispensing system is stocked and filled by a registered pharmacy technician, shall be responsible for the proper and accurate stocking and filling of the automated drug dispensing system.

B. Drugs placed into and removed from automated drug dispensing systems for administration to patients shall be in the manufacturer's or distributor's sealed original packaging or in unit-dose containers packaged by the pharmacy. *Drugs in multi-dose packaging, other than those administered orally, may be placed in such a device if approved by the pharmacist-in-charge in consultation with a standing hospital committee comprised of pharmacy, medical, and nursing staff.*

C. The pharmacist-in-charge in a pharmacy located within a hospital or the pharmacist-in-charge of any outside pharmacy providing pharmacy services to a hospital shall be responsible for establishing procedures for (i) periodically inspecting and auditing automated drug dispensing systems to assure the proper storage, security, and accountability for all drugs placed in and removed from automated drug dispensing systems, and (ii) reviewing the operation and maintenance of automated drug dispensing systems. This monitoring shall be reviewed by a pharmacist while on the premises of the hospital and in accordance with the pharmacist-in-charge's procedures and the Board of Pharmacy's regulations.

D. The Board of Pharmacy shall promulgate regulations establishing minimum requirements for random periodic inspections and monthly audits of automated drug dispensing systems to assure the proper storage, security, and accountability of all drugs placed in and removed from automated drug dispensing systems and for reviewing the operation and maintenance of automated drug dispensing systems.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 54.1-3301 of the Code of Virginia, relating to pharmacies participating in bulk donation programs.

[H 2214]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3301 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3301. Exceptions.

This chapter shall not be construed to:

1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any physician acting on behalf of the Virginia Department of Health or local health departments, in the compounding of his prescriptions or the purchase and possession of drugs as he may require;

2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health departments, from administering or supplying to his patients the medicines that he deems proper under the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to §§ 32.1-42.1 and 54.1-3408;

3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34 (§ 54.1-3400 et seq.) of this title;

4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34 (§ 54.1-3400 et seq.) of this title;

5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the regulations of the Board;

6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from purchasing, possessing or administering controlled substances to his own patients or providing controlled substances to his own patients in a bona fide medical emergency or providing manufacturers' professional samples to his own patients;

7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic pharmaceutical agents, from purchasing, possessing or administering those controlled substances as specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own patients those controlled substances as specified in § 54.1-3222 and the TPA formulary or providing manufacturers' samples of these drugs to his own patients;

8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice setting and a written agreement with a physician or podiatrist;

9. Interfere with any licensed nurse practitioner with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to prescribe according to his practice setting and a written agreement with a physician;

10. Interfere with any legally qualified practitioner of medicine or osteopathy participating in an indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in the program shall not use the donated drug for any purpose other than dispensing to the patient for whom it was originally donated, except as authorized by the donating manufacturer for another patient meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent patient program pursuant to this subdivision. A participating pharmacy, *including a pharmacy*

participating in bulk donation programs, may charge a reasonable dispensing or administrative fee to offset the cost of dispensing, not to exceed the ~~comparable allowable fee reimbursed by the Virginia Medicaid program~~ *actual costs of such dispensing*. However, if the patient is unable to pay such fee, the dispensing or administrative fee shall be waived;

11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing controlled substances to his own patients in a free clinic without charge when such controlled substances are donated by an entity other than a pharmaceutical manufacturer as authorized by subdivision 10. The practitioner shall first obtain a controlled substances registration from the Board and shall comply with the labeling and packaging requirements of this chapter and the Board's regulations; or

12. Prevent any pharmacist from providing free health care to an underserved population in Virginia who (i) does not regularly practice pharmacy in Virginia, (ii) holds a current valid license or certificate to practice pharmacy in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any pharmacist whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a pharmacist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

This section shall not be construed as exempting any person from the licensure, registration, permitting and record keeping requirements of this chapter or Chapter 34 of this title.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 54.1-3411.1 of the Code of Virginia, relating to donation of prescription medication; liability of pharmaceutical manufacturers.

[H 2352]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3411.1 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3411.1. Prohibition on returns, exchanges, or re-dispensing of drugs; exceptions.

~~A. Drugs dispensed to persons pursuant to a prescription shall not be accepted for return or exchange~~ for the purpose of re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises from which they were dispensed except:

1. In a hospital with an on-site hospital pharmacy wherein drugs may be returned to the pharmacy in accordance with practice standards;

2. In such cases where official compendium storage requirements are assured and the drugs are in manufacturers' original sealed containers or in sealed individual dose or unit dose packaging that meets official compendium class A or B container requirements, or better, and such return or exchange is consistent with federal law; or

3. When a dispensed drug has not been out of the possession of a delivery agent of the pharmacy.

B. (For contingent expiration - see Editor's note) Pursuant to a voluntary agreement between a nursing home or a hospital and a pharmacy, drugs may be transferred in accordance with subdivision A 2 between the nursing home or the hospital and the pharmacy for re-dispensing to patients of clinics organized in whole or in part for the delivery of health care services without charge, or to the indigent, free of charge, if the following procedures are satisfied:

1. The physical transfer shall be accomplished by a person authorized to do so by the pharmacy;

2. The person or his authorized representative from whom the prescription medication was obtained shall provide written consent for the donation and such consent shall be maintained on file at the licensed nursing home or hospital;

3. The person's name, prescription number, and any other patient identifying information, shall be obliterated from the packaging prior to removal from the licensed nursing home or hospital;

4. The drug name, strength, and expiration date or beyond-use date shall remain on the medication package label;

5. An inventory list of the drugs shall accompany the drugs being transferred that shall include, but not be limited to, the medication names, strengths, expiration dates, and quantities; and

6. Outdated drugs shall not be transferred and shall be destroyed in accordance with regulations adopted by the Board.

The pharmacist-in-charge at the pharmacy shall be responsible for determining the suitability of the product for re-dispensing. A re-dispensed prescription shall not be assigned an expiration date beyond the expiration date or beyond-use date on the label from the first dispensing and no product shall be re-dispensed more than one time. No product shall be accepted for re-dispensing by the pharmacist where integrity cannot be assured.

B. (For contingent effective date - see Editor's note) The Board of Pharmacy shall promulgate regulations to establish a Prescription Drug Donation Program for accepting unused previously dispensed prescription drugs that meet the criteria set forth in subdivision A2, for the purpose of re-dispensing such drugs to patients of clinics organized in whole or in part for the delivery of health care services to the indigent. Such program shall not authorize the donation of Schedule II-V controlled substances if so prohibited by federal law. No drugs shall be re-dispensed unless the integrity of the drug can be assured.

C. ~~Nothing in this section shall authorize the donation of unused~~ *Unused* prescription drugs dispensed for use by persons eligible for coverage under Title XIX or Title XXI of the Social Security Act, as amended, *may be donated pursuant to this section unless such donation is prohibited.*

D. A pharmaceutical manufacturer shall not be liable for any claim or injury arising from the ~~transfer of any prescription or any consumer information regarding the transferred prescription medication pursuant to this section.~~ *storage, donation, acceptance, transfer, or dispensing of any drug provided to a patient, or any other activity undertaken in accordance with a drug distribution program established pursuant to this section.*

E. Nothing in this section shall be construed to create any new or additional liability, or to abrogate any liability that may exist, applicable to a pharmaceutical manufacturer for its products separately

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57 *from the storage, donation, acceptance, transfer, or dispensing of any drug provided to a patient in*
58 *accordance with a drug distribution program established pursuant to this section.*

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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-2506.1 and 54.1-3012.1 of the Code of Virginia, relating to the submission of information to the Department of Health Professions.

[H 2405]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 54.1-2506.1 and 54.1-3012.1 of the Code of Virginia are amended and reenacted as follows:

~~§ 54.1-2506.1. Submission of required information.~~

A. The Department is authorized to require individuals applying for initial licensure, *certification, or registration,* and individuals who are licensed ~~to practice medicine, osteopathic medicine, dentistry, or to practice as a physician assistant, nurse practitioner or dental hygienist~~, *certified, or registered by a health regulatory board* to provide information in addition to that which is required to determine the individual's qualifications ~~to be licensed~~. Such additional information shall ~~identify~~ *include identification of* the individual's ~~specialty~~ *self-designated specialties* and ~~subspecialty~~ *subspecialties*; credentials and certifications issued by professional associations, institutions and boards; and locations of *each* practice *site,* ~~and~~ number of hours spent practicing at each practice *site* location, *and demographic information. The Department, in consultation with the health regulatory boards, may establish criteria to identify additional data elements deemed necessary for workforce and health planning purposes.* Such information shall be collected and maintained by the Department for ~~manpower~~ *workforce and health* planning purposes in cooperation with agencies and institutions of the Commonwealth and shall be released by the Department only in the aggregate without reference to any ~~licensee's~~ *person's* name or other individual ~~identifying particulars~~ *identifiers; however, the Department may release any information that identifies specific individuals for the purpose of determining shortage designations and to qualified personnel if pertinent to an investigation, research, or study, provided a written agreement between such qualified personnel and the Department, which ensures that any person to whom such identities are divulged shall preserve the confidentiality of those identities, is executed.* Prior to collecting any information described in this section from ~~individual licensees~~ *individuals*, the Department shall first attempt to obtain from other sources information sufficient for ~~manpower~~ *workforce* planning purposes.

B. For the purpose of expediting the dissemination of *public health* information, *including notice* about a public health emergency, the Department is authorized to require certain licensed, certified or registered persons to report any email address, telephone number and facsimile number that may be used to contact such person in the event of a public health emergency *or to provide information related to serving during a public health emergency*. In the event of an animal health emergency, the Department shall provide to the State Veterinarian the email addresses, telephone numbers and facsimile numbers that may be used to contact licensed veterinarians.

Such email addresses, telephone numbers and facsimile numbers shall not be published, released or made available for any other purpose by the Department, *the Department of Health,* or the State Veterinarian.

The Director, in consultation with the Department of Health and the Department of Emergency Management, shall adopt regulations that identify those licensed, certified or registered persons to which the requirement to report shall apply and the procedures for reporting.

§ 54.1-3012.1. Nursing workforce information.

A. With such funds as are appropriated for this purpose, *and consistent with the provisions of § 54.1-2506.1,* the Board shall collect, store, and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered under the provisions of this chapter. In addition to appropriated funds, the Board may also accept donations or grants from private sources in addition to any licensure or certification fee to any certified, licensed or registered nurse to carry out the provisions of this section. The information to be collected on nurses shall include, but not be limited to: (i) demographic data; (ii) level of education; (iii) employment status; (iv) employment setting such as in a hospital, physician's office, or nursing home; (v) geographic location of employment; (vi) type of nursing position or area of specialty; and (vii) number of hours worked per week. Such information shall be collected and updated biennially, and shall be published, in aggregate form and in a format accessible to the public, on the Department of Health Professions website. ~~Information could identify individual nurses shall not be released in any form or manner.~~ *However, the Board may release information that identifies specific individuals for the purpose of determining shortage designations and*

57 *to qualified personnel if pertinent to an investigation, research, or study, provided a written agreement*
58 *between such qualified personnel and the Department, which ensures that any person to whom such*
59 *identities are divulged shall preserve the confidentiality of such identities, is executed.*
60 B. The Board shall promulgate regulations to implement the provisions of this section. Such
61 regulations shall include: (i) the specific number and types of nursing workforce data elements to be
62 collected; (ii) the process by which the information is collected, stored, and made available to interested
63 parties; (iii) provisions to ensure the confidentiality of the data to be collected and to protect the identity
64 of all individuals submitting information; and (iv) other provisions as determined by the Board.

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HOUSE BILL NO. 2453

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare, and Institutions)

(Patron Prior to Substitute—Delegate Sickles)

House Amendments in [ ] - February 9, 2009

A BILL to amend the Code of Virginia by adding a section numbered 2.2-213.3 and to amend Chapter 635 of the Acts of Assembly of 2007 by adding a section numbered 2, relating to electronic prescribing.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-213.3 as follows:

§ 2.2-213.3. Secretary to coordinate electronic prescribing clearinghouse.

A. In order to promote the implementation of electronic prescribing by health practitioners, health care facilities, and pharmacies in order to prevent prescription drug abuse, improve patient safety, and reduce unnecessary prescriptions, the Secretary of Health and Human Resources, in consultation with the Secretary of Technology, shall establish a website with information on electronic prescribing for health practitioners. The website shall contain (i) information concerning the process and advantages of electronic prescribing, including using medical history data to prevent drug interactions, prevent allergic reactions, and deter abuse of controlled substances; (ii) information regarding the availability of electronic prescribing products, including no-cost or low-cost products; (iii) links to federal and private-sector websites that provide guidance on selecting electronic prescribing products; and (iv) links to state, federal, and private-sector incentive programs for the implementation of electronic prescribing.

B. The Secretary of Health and Human Resources, in consultation with the Secretary of Technology, shall regularly consult with relevant public and private stakeholders to assess and accelerate the implementation of electronic prescribing in Virginia. For purposes of this section, relevant stakeholders include, but are not limited to, organizations that represent health practitioners, organizations that represent health care facilities, organizations that represent pharmacies, organizations that operate electronic prescribing networks, organizations that create electronic prescribing products, and regional health information organizations.

2. That Chapter 635 of the Acts of Assembly of 2007 is amended by adding a section numbered 2 as follows:

§ 2. Beginning January 1, 2010, any health care provider who is authorized to prescribe controlled substances pursuant to Chapter 33 (§ 54.1-3303 et seq.) of Title 54.1 of the Code of Virginia and who contracts with the Commonwealth for the provision of health care-related services shall utilize electronic prescribing to the maximum extent practicable in providing such services to the Commonwealth. For purposes of this section, electronic prescribing shall mean, at a minimum, the electronic generation of the patient's prescription, and the electronic transmission of the patient's prescription to the pharmacy. However, no health care provider shall be prohibited from contracting with the Commonwealth for not utilizing electronic prescribing.

3. That the Department of Medical Assistance Services shall develop [a plan for] programs and incentives to encourage Medicaid providers in the Commonwealth to adopt and utilize electronic prescribing. Such programs and incentives shall consider the advantages of electronic prescribing in improved patient safety, as well as the efficiencies and cost savings that may be recognized by the Commonwealth in encouraging the adoption of electronic prescribing. The Department shall report to the Governor and the General Assembly no later than December 1, 2009, as to recommendations concerning programs and incentives. The Department is also encouraged to pursue opportunities with the private sector in implementing electronic prescribing programs.

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2/20/09 10:48

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 54.1-3411.1 of the Code of Virginia, relating to redispensing of prescription medication.

[H 2482]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3411.1 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3411.1. Prohibition on returns, exchanges, or re-dispensing of drugs; exceptions.

A. Drugs dispensed to persons pursuant to a prescription shall not be accepted for return or exchange for the purpose of re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises from which they were dispensed except:

1. In a hospital with an on-site hospital pharmacy wherein drugs may be returned to the pharmacy in accordance with practice standards;

2. In such cases where official compendium storage requirements are assured and the drugs are in manufacturers' original sealed containers or in sealed individual dose or unit dose packaging that meets official compendium class A or B container requirements, or better, and such return or exchange is consistent with federal law; or

3. When a dispensed drug has not been out of the possession of a delivery agent of the pharmacy.

B. (For contingent expiration - see Editor's note) Pursuant to a voluntary agreement between a nursing home or a hospital and a pharmacy, drugs may be transferred in accordance with subdivision A 2 between the nursing home or the hospital and the pharmacy for re-dispensing to *indigent* patients ~~of~~, *either through hospitals, or through* clinics organized in whole or in part for the delivery of health care services without charge, or to the indigent, free of charge, if the following procedures are satisfied:

1. The physical transfer shall be accomplished by a person authorized to do so by the pharmacy;

2. The person or his authorized representative from whom the prescription medication was obtained shall provide written consent for the donation and such consent shall be maintained on file at the licensed nursing home or hospital;

3. The person's name, prescription number, and any other patient identifying information, shall be obliterated from the packaging prior to removal from the licensed nursing home or hospital;

4. The drug name, strength, and expiration date or beyond-use date shall remain on the medication package label;

5. An inventory list of the drugs shall accompany the drugs being transferred that shall include, but not be limited to, the medication names, strengths, expiration dates, and quantities; and

6. Outdated drugs shall not be transferred and shall be destroyed in accordance with regulations adopted by the Board.

The pharmacist-in-charge at the pharmacy shall be responsible for determining the suitability of the product for re-dispensing. A re-dispensed prescription shall not be assigned an expiration date beyond the expiration date or beyond-use date on the label from the first dispensing and no product shall be re-dispensed more than one time. No product shall be accepted for re-dispensing by the pharmacist where integrity cannot be assured.

B. (For contingent effective date - see Editor's note) The Board of Pharmacy shall promulgate regulations to establish a Prescription Drug Donation Program for accepting unused previously dispensed prescription drugs that meet the criteria set forth in subdivision A2, for the purpose of re-dispensing such drugs to *indigent* patients ~~of~~, *either through hospitals, or through* clinics organized in whole or in part for the delivery of health care services to the indigent. Such program shall not authorize the donation of Schedule II-V controlled substances if so prohibited by federal law. No drugs shall be re-dispensed unless the integrity of the drug can be assured.

C. Nothing in this section shall authorize the donation of unused prescription drugs dispensed for use by persons eligible for coverage under Title XIX or Title XXI of the Social Security Act, as amended.

D. A pharmaceutical manufacturer shall not be liable for any claim or injury arising from the transfer of any prescription or any consumer information regarding the transferred prescription medication pursuant to this section.

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Agenda Item: **Regulatory Actions - Chart of Regulatory Actions**

Staff Note: Attached is a chart with the status of regulations for the Board

Action: None – provided for information only

Chapter	Action / Stage Information	
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	Action:	Drug donation program
	Stage:	Emergency/NOIRA - *At Governor's Office*
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	Action:	Standards of conduct
	Stage:	Proposed adopted by Board in December, 2008
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	Action:	Periodic review
	Stage:	Proposed - *Register Date: 10/13/08* *Final to be adopted by Board in March 2009*
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	Action:	Changes in renewal dates for pharmacies and permitted facilities
	Stage:	Proposed - *At Secretary's Office*

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