

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § [18.2-248](#) for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § [18.2-248](#) for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

- Should a prescription is found to be invalid it is the Pharmacist responsibility to notify Law enforcement. A lot of the burden for curbing the prescription drug abuse problem is with the pharmacy and pharmacist. Educating them is essential they have to know what the signs are or “red flags”. It should be mandatory for the doctors and pharmacies to report suspected abuse.
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§ 54.1-3405. Access to and copies of records; inspections.

Every person required to prepare or obtain, and keep, records, and any carrier maintaining records with respect to any shipment containing any drug, and every person in charge or having custody of such records shall, upon request of an agent designated by the Board, permit such agent at reasonable times to have access to and copy such records.

Any agent designated by the Superintendent of the Department of State Police to conduct drug diversion investigations shall, for the purpose of such investigations, also be permitted access at reasonable times to all such records relevant to a specific investigation and be allowed to inspect and copy such records.

- Right now many cases of drug diversion or even suspicion of drug diversion goes unreported. If it were mandated the cases be reported the number of investigations would be overwhelming. Many local law enforcement agencies investigate drug diversion cases but are not allowed access to records as is the State Police Drug Diversion Agents. Allow local law enforcement investigators investigating drug diversion cases the same access as state police agents.
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§ 54.1-3408.2. Failure to report administration or dispensing of or prescription for controlled substances; report required; penalty.

Any person authorized to prescribe, dispense, or administer controlled substances pursuant to § [54.1-3408](#) who has reason to suspect that a person has obtained or attempted to obtain a controlled substance or prescription for a controlled substance by fraud or deceit, **may report the activity to the local law-enforcement agency for investigation. Any person who, in good faith, makes a report or furnishes information or records to a law-enforcement officer or entity pursuant to this section shall not be liable for civil damages in connection with making such report or furnishing such information or records.**

- Virginia code § 54.1-3408.2 allows them to report any suspected abuse, but it is not mandatory. Change the wording to *shall* report the activity to the *State* or local law-enforcement agency for investigation. This also protects the pharmacies in dispensing.
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§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § [54.1-3408](#) shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. However, this provision shall not apply (i) to prescriptions written as chart orders for patients in hospitals and long-term-care facilities, patients receiving home infusion services or hospice patients, or (ii) to a prescription ordered through a pharmacy operated by or for the Department of Corrections or the Department of Juvenile Justice, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Behavioral Health and Developmental Services; or (iii) to prescriptions written for patients residing in adult and juvenile detention centers, local or regional jails, or work release centers operated by the Department of Corrections.

B. Prescribers' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV, and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications device over telephone lines which send the exact image to the receiver in hard copy form, and such facsimile copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a physician authorized by state or federal law to possess and administer medical radioactive materials may authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for radiopharmaceuticals.

C. The oral prescription referred to in § [54.1-3408](#) shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.

- With the technology today more doctors are going to computer-generated prescriptions. They are formatted on a computer and printed out. With this type of prescriptions the abusers and illegal distributors can easily format a prescription on a computer and print it out on plain copy paper. In order to curtail this, two things should be changed security paper should be required on all Schedule II's and III's and the doctors signature should be required to be in either blue, red or any other color from the rest of the prescription. This will prevent a legitimate prescription from simply being copied. In regards to the pharmacy and pharmacist they too have an obligation to the patient and society to combat this drug problem. If a Schedule II and III drug is prescribed and is written on security paper and a different color ink is used for the doctor's signature, the pharmacist or pharmacy technician will be able to identify a forgery if those items are not present.

§ 54.1-3408.1. Prescription in excess of recommended dosage in certain cases.

In the case of a patient with intractable pain, a physician may prescribe a dosage in excess of the recommended dosage of a pain relieving agent if he certifies the medical necessity for such excess dosage in the patient's medical record. Any person who prescribes, dispenses or administers an excess dosage in accordance with this section shall not be in violation of the provisions of this title because of such excess dosage, if such excess dosage is prescribed, dispensed or administered in good faith for accepted medicinal or therapeutic purposes.

Nothing in this section shall be construed to grant any person immunity from investigation or disciplinary action based on the prescription, dispensing or administration of an excess dosage in violation of this title.

- Require more stringent requirements to VA Code Section 54.1-3408.1 regarding a health care practitioner's discretion to prescribe narcotic medication beyond the recommended dosage.
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§ 54.1-3420.1. Identification required for filling prescriptions.

A. Before dispensing any drug listed on Schedules III through V, a pharmacist may require proof of identity from any patient presenting a prescription or requesting a refill of a prescription.

B. A pharmacist, or his agent, shall require proof of identity at the time of delivery from any person seeking to take delivery of any drug listed on Schedule II pursuant to a valid prescription, unless such person is known to the pharmacist or to his agent. If the person seeking to take delivery of a drug listed on Schedule II pursuant to a valid prescription is not the patient for whom the drug is prescribed, and the person is not known to the pharmacist or his agent, the pharmacist or his agent shall either make a photocopy or electronic copy of such person's identification or record the full name and address of such person. The pharmacist shall keep records of the names and addresses or copies of proof of identity of persons taking delivery of drugs as required by this subsection for a period of at least one month. For the purposes of this subsection, "proof of identity" means a driver's license, government-issued identification card, or other photo identification along with documentation of the person's current address.

C. Whenever any pharmacist permitted to operate in the Commonwealth or nonresident pharmacist registered to conduct business in the Commonwealth delivers a prescription drug order for any drug listed on Schedule II by mail, common carrier, or delivery service to a Virginia address, the method of delivery employed shall require the signature of the recipient as confirmation of receipt.

- Require prescribers and pharmacist to obtain and copy proof of identity/photo identification to patients being prescribed and dispensed Schedules II thru V narcotics. 54.1-3420.1 requires a pharmacist to obtain such information and maintain it for 1 month for Schedule II narcotics; however, it gives pharmacist discretion as to whether they obtain and copy proof of identity for Schedules III thru V narcotics. Changes could also be addressed regarding the retention of such information, from 1 month to possibly 6 months. Either photocopy or electronic scan.
 - Discontinue the practice of telephone call in prescriptions on Schedules II thru V narcotics.
 - Email (Escript) all prescription narcotics Schedules II thru V.
 - Limit the amount of refills on all prescription narcotics Schedules III thru V. Schedule II prescription narcotics are not permitted to be written with refills.
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§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. It shall be unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance or marijuana: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It shall be unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by Chapter 34 (§ [54.1-3400](#) et seq.) of Title 54.1.

C. It shall be unlawful for any person to use in the course of the manufacture or distribution of a controlled substance or marijuana a license number which is fictitious, revoked, suspended, or issued to another person.

D. It shall be unlawful for any person, for the purpose of obtaining any controlled substance or marijuana to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other authorized person.

E. It shall be unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It shall be unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein shall be guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided

in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person is determined by the court to be indigent.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency.

Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find the defendant guilty of a Class 1 misdemeanor.

- Add the following/similar wording to VA Code Section 18.2-258.1, "information communicated to a health care practitioner in violation of this statute shall not be deemed privileged information."

New Requirements

- Require medical personnel/facilities and ALL law enforcement agencies to report and share information related to overdoses due to prescription narcotics and heroin to a central location for information sharing purposes and to potentially assist an ongoing or future criminal investigation. Example – Prescription narcotic overdoses can be reported to the Virginia State Police Drug Diversion Unit and disseminated to the appropriate BCI Field Office for follow up with the law enforcement agency receiving report of and investigating the overdose. Just a brief summary of the subjects involved and facts of the case.

- Require health care practitioners to access the PMP on a regular basis for chronic pain patients receiving long term treatment with prescription narcotics.
- Mandatory use of the Prescription Monitoring Program (PMP) by physicians/dentists/pharmacists when prescribing/dispensing narcotic pain medications.
- Require/encourage federally funded healthcare such as the Veterans Administration, TriCare, Department of Defense, HHS, etc. to report prescription narcotic prescribing/dispensing to the PMP. (The VA currently provides such information to state PMP'S; however, I have had cases with veterans and active duty personnel and I have never received prescription narcotic information pertaining to the VA or TriCare.)??
- Limit the authority to licensed prescribers only to order and receive prescription pads and security paper.
- Require the PMP to report high users/prescribers to the appropriate law enforcement agency for the purpose of determining if the activity warrants a criminal investigation. Further require the PMP to report such prescribers to the appropriate licensing Board.
- Require the PMP to report to the Board of Pharmacy any pharmacies that are dispensing high levels of Schedules II thru V prescription narcotics, for the purpose of potentially conducting an audit and/or further action.
- Require pharmacist to verify the validity of out of state prescriptions for Schedules II thru V prescription narcotics.
- Nationalization or at least regionalization of the PMP program, so pill seekers can be detected when attempting to obtain pills by multiple doctors in adjacent states. Currently the system only checks Virginia and West Virginia.
- In certain cases, it should be allowable for a doctor to complete an affidavit attesting to the fact that, 1) the person is not a patient, 2) the prescription in question is not theirs, and 3) they did not prescribe the medication indicated and the signature is not theirs. This would save from having to coordinate with the doctor and other witnesses to appear in court. This could be used where the patient has never been to the doctor and no record exists.