

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: H2/24/21

A Bill

HOUSE BILL 1246

5 By: Representatives Bragg, Eubanks
6 By: Senators D. Wallace, Hester
7

For An Act To Be Entitled

9 AN ACT TO ALLOW PHARMACISTS TO TREAT CERTAIN HEALTH
10 CONDITIONS; AND FOR OTHER PURPOSES.

Subtitle

14 TO ALLOW PHARMACISTS TO TREAT CERTAIN
15 HEALTH CONDITIONS.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19
20 SECTION 1. DO NOT CODIFY. Purpose.

21 It is the purpose of this act to authorize pharmacists in Arkansas to
22 test and screen for health conditions that the Centers for Medicare and
23 Medicaid Services has determined qualify for a waiver under the federal
24 Clinical Laboratory Improvement Amendments of 1988, the federal regulations
25 adopted, or any established screening procedures that can safely be performed
26 by a pharmacist.

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28 SECTION 2. Arkansas Code § 17-92-101(17)(A)(x), concerning the
29 definition of "practice of pharmacy", is amended to read as follows:

30 (x)(a) Providing pharmacy care; ~~and.~~

31 (b) A pharmacist may treat the following
32 conditions within the framework of a statewide written protocol:

33 (1) Influenza;

34 (2) Pharyngitis caused by streptococcus

35 A; or

36 (3) Other health conditions that can be



1 screened utilizing the waived test under the Clinical Laboratory Improvement
2 Amendments of 1988, that may be adopted by rule of the Arkansas State Board
3 of Pharmacy, in consultation with and upon approval of the Arkansas State
4 Medical Board.

5 (c) A pharmacist shall only treat conditions
6 for which the pharmacist has tested and that are approved under this
7 subdivision (17)(A)(x)(c).

8 (d)(1) The Arkansas State Board of Pharmacy,
9 with consultation and upon approval of the Arkansas State Medical Board,
10 shall adopt by rule:

11 (A) A formulary of medicinal drugs
12 that a pharmacist may prescribe for treatment of conditions listed in
13 subdivision (17)(A)(x)(b) of this section; and

14 (B) A written statewide protocol
15 for conditions listed in subdivision (17)(A)(x)(b) of this section, which
16 shall including without limitation age of people that can be treated and
17 medications to be used to treat people under this subdivision.

18 (2) The formulary shall include
19 medicinal drugs approved by the United States Food and Drug Administration
20 which are indicated for treatment of these conditions, including without
21 limitation any over-the-counter medication.

22 (3) The formulary shall not include any
23 controlled substance in Schedule I-IV or 21 U.S.C. § 812, as existing on
24 January 1, 2021.

25 (e) A pharmacist may write a prescription for
26 over-the-counter medications, supplies, and devices; and

27
28 *SECTION 3. Arkansas Code § 17-92-101(18), concerning the definition of*
29 *"prescription", is amended to read as follows:*

30 *(18)(A)(i) "Prescription" means an order for medicine or*
31 *medicines usually written as a formula by a physician, optometrist, dentist,*
32 *veterinarian, or other licensed medicinal practitioner.*

33 *(ii) A prescription ~~It~~ contains the names and*
34 *quantities of the desired substance, with instructions to the pharmacist for*
35 *its preparation and to the patient for the use of the medicine at a*
36 *particular time and may authorize the pharmacist to substitute a*

1 therapeutically equivalent drug that is at a lower cost to the patient and
2 communicate that authorization by any generally accepted means of
3 communication of a prescription from a prescriber to a pharmacist.

4 (B)(i) A substitution of a therapeutically equivalent drug
5 shall occur only after the prescriber grants such authorization for each
6 prescription, pharmacist whose practice is located within this state may
7 substitute one (1) medication for a therapeutically equivalent medication.

8 (ii) However, a pharmacist shall not substitute one
9 (1) medication for a therapeutically equivalent medication if:

10 (a) A prescription is in writing and the
11 prescriber indicates in his or her own handwriting by name or initial that no
12 substitution is to be made;

13 (b) A prescription is not in writing and the
14 prescriber expressly indicates that the prescription is to be dispensed as
15 communicated; or

16 (c) The Arkansas State Board of Pharmacy has
17 determined that a therapeutically equivalent medication should not be
18 substituted and has notified all pharmacists of that determination.

19 (C)(i) Before dispensing, the pharmacist shall discuss
20 verbally any suggested substitution with the patient and inform the patient
21 that the patient has a right to refuse the substitution.

22 (ii) The discussion under subdivision (18)(C)(i) of
23 this section shall include without limitation:

24 (a) Notification to the patient that the
25 therapeutically equivalent drug does not contain the identical active
26 ingredient present in the prescribed drug; and

27 (b) All differences in dosage and frequency
28 between the prescribed drug and the therapeutically equivalent drug.

29 (D) The pharmacist shall send notice of the substitution
30 to the prescriber in writing or by electronic communication within twenty-
31 four (24) hours after the drug is dispensed to the patient.

32 (E) Subdivision (18)(B) of this section does not apply to
33 specific acts of drug therapy management or disease state management
34 delegated to a pharmacist based upon a written protocol or patient care plan
35 approved by a physician under subdivision (17)(A)(ix) of this section;

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1 SECTION 4. Arkansas Code Title 17, Chapter 92, Subchapter 1, is
2 amended to add an additional section to read as follows:

3 17-92-118. Point-of-care treatment.

4 A pharmacist who tests for conditions under § 17-92-101(17)(A)(x)
5 shall:

6 (1) Hold a license to practice pharmacy in this state;

7 (2) Report a diagnosis or suspected existence of influenza to
8 the Department of Health;

9 (3) Furnish patient records to a healthcare practitioner
10 designated by the patient upon the request of the patient; and

11 (4) Maintain records of all patients receiving services under
12 this section for two (2) years.

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14 SECTION 5. DO NOT CODIFY. Effective date.

15 This act takes effect on and after January 1, 2022.

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17 */s/Bragg*
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