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2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S2/9/11
A Bill

SENATE BILL 130

5 By: Senator P. Malone
6

7 **For An Act To Be Entitled**

8 AN ACT TO CLARIFY THE AUTHORITY OF PHARMACISTS TO
9 PROVIDE VACCINES AND IMMUNIZATIONS AND TO ADMINISTER
10 CERTAIN MEDICATIONS; AND FOR OTHER PURPOSES.
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13 **Subtitle**

14 AN ACT TO CLARIFY THE AUTHORITY OF
15 PHARMACISTS TO PROVIDE VACCINES AND
16 IMMUNIZATIONS AND TO ADMINISTER CERTAIN
17 MEDICATIONS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 17-92-101 is amended to read as follows:

23 17-92-101. Definitions.

24 As used in this chapter:

25 (1) "Board" means the Arkansas State Board of Pharmacy;

26 (2) "Credentialing" means the issuance of or approval by the
27 Arkansas State Board of Pharmacy of a credential issued to a pharmacist by an
28 agency approved by the board certifying that the pharmacist has met the
29 standards of competency established by the Arkansas State Board of Pharmacy
30 for disease state management or other pharmacy services necessitating a
31 credential;

32 (3) "Dentist" means a practitioner of dentistry duly licensed
33 under the laws of this or some other state;

34 (4)(A) "Disease state management" means a strategy that utilizes
35 a team-oriented, multidisciplinary approach to improve health care outcomes
36 and quality of care, and when possible, to control health care cost through



1 management of targeted chronic disease states.

2 (B) Disease state management focuses on improving health
3 care from prevention to diagnosis and treatment to ongoing follow-up.

4 (C) Disease state management will involve, but not be
5 limited to, patient education, self-care techniques, and outpatient drug
6 therapy management pursuant to a patient care plan;

7 (5) "Drug" shall include all medicines and preparations
8 recognized in the United States Pharmacopoeia or the National Formulary as
9 substances intended to be used for the care, mitigation, or prevention of
10 disease of either man or other animals;

11 (6) "Generically equivalent" means a drug that is
12 pharmaceutically and therapeutically equivalent to the drug prescribed;

13 (7) "Licensed pharmacist" means a person holding a license under
14 the provisions of this chapter;

15 (8) "Medicine" means a drug or preparation of drugs in suitable
16 form for use as a curative or remedial substance;

17 (9) "Optometrist" means a practitioner of optometry duly
18 licensed under the laws of this state;

19 (10) "Patient care plan" means a written course of action that
20 is patient- or physician- or pharmacist-specific and disease-specific for
21 helping a patient to achieve outcomes that improve a patient's quality of
22 life;

23 (11) "Pharmaceutically equivalent" means drug products that have
24 identical amounts of the same active chemical ingredients in the same dosage
25 form and that meet the identical, compendious, or other applicable standards
26 of strength, quality, and purity according to the United States Pharmacopoeia
27 or another nationally recognized compendium;

28 (12) "Pharmacy" means the place licensed by the Arkansas State
29 Board of Pharmacy in which drugs, chemicals, medicines, prescriptions, and
30 poisons are compounded, dispensed, or sold at retail;

31 (13) "Pharmacy care" means the process by which a pharmacist in
32 consultation with the prescribing practitioner identifies, resolves, and
33 prevents potential and actual drug-related problems and optimizes patient
34 therapy outcomes through the responsible provision of drug therapy or disease
35 state management for the purpose of achieving any of the following definite
36 outcomes that improve a patient's quality of life:

- 1 (A) Cure of disease;
2 (B) Elimination or reduction of a patient's symptomology;
3 (C) Arresting or slowing a disease process; or
4 (D) Preventing a disease or symptomology;

5 (14) "Physician" means a practitioner of medicine duly licensed
6 under the laws of this or some other state;

7 (15) "Poisons" means any drug, chemical, medicine, or
8 preparation liable to be destructive to adult human life in quantities of
9 sixty (60) grains or less;

10 (16)(A) "Practice of pharmacy" means the learned profession of:

11 (i)(a) Dispensing, selling, distributing,
12 transferring possession of, vending, bartering, or, in accordance with
13 regulations adopted by the Arkansas State Board of Pharmacy, administering
14 drugs, medicines, poisons, or chemicals that under the laws of the United
15 States or the State of Arkansas may be sold or dispensed only on the
16 prescription and order of a practitioner authorized by law to prescribe
17 drugs, medicines, poisons, or chemicals.

18 (b) Except in accordance with regulations
19 adopted by the Arkansas State Board of Pharmacy as recommended by the
20 Medications Administration Advisory Committee, the administration of
21 medications shall be limited to the following classifications of medications:
22 immunizations, vaccines, allergy medications, vitamins, minerals,
23 antihyperglycemics, and antinausea medications.

24 (c) ~~The administration of medications shall~~
25 ~~not include the administration of medications to any person under eighteen~~
26 ~~(18) years of age; Influenza vaccines and influenza immunizations may be~~
27 ~~administered to a person seven (7) years of age and older under a general~~
28 ~~written protocol.~~

29 (d) Vaccines and immunizations other than
30 influenza vaccines and influenza immunizations may be administered to a
31 person from seven (7) years of age to eighteen (18) years of age under a
32 patient-specific order or prescription and subject to reporting of the
33 administration to the prescribing physician together with any reporting
34 required under § 20-15-1203.

35 (e) Vaccines and immunizations other than
36 influenza vaccines and influenza immunizations may be administered to a

1 person eighteen (18) years of age or older under a general written protocol.
2 (f) Medications other than vaccines and
3 immunizations may be administered to a person seven (7) years of age or older
4 under a patient-specific order or prescription and subject to reporting of
5 the administration to the prescribing physician.

6 (g) A general written protocol under
7 subdivisions (16)(A)(i)(c) and (e) of this section and patient-specific
8 orders or prescriptions under subdivisions (16)(A)(i)(d) and (f) shall be
9 from a physician licensed by the Arkansas State Medical Board and practicing
10 in Arkansas or within fifty (50) miles of the Arkansas border;

11 (ii) Placing, packing, pouring, or putting into a container for
12 dispensing, sale, distribution, transfer of, possession of, vending, or
13 bartering any drug, medicine, poison, or chemical that under the laws of the
14 United States or the State of Arkansas may be sold or dispensed only on the
15 prescription of a practitioner authorized by law to prescribe drugs,
16 medicines, poisons, or chemicals;

17 (iii) Placing in or affixing upon any container
18 described in subdivision (16)(A)(ii) of this section a label required to be
19 placed upon drugs, medicines, poisons, or chemicals sold or dispensed upon
20 prescription of a practitioner authorized by law to prescribe those drugs,
21 medicines, poisons, or chemicals;

22 (iv) Preparing, typing, or writing labels to be
23 placed in or affixed on any container described in subdivision (16)(A)(ii) of
24 this section, which label is required to be placed upon drugs, medicines,
25 poisons, or chemicals sold or dispensed upon prescription of a practitioner
26 authorized by law to prescribe those drugs, medicines, poisons, or chemicals;

27 (v) Interpreting prescriptions for drugs, medicines,
28 poisons, or chemicals issued by practitioners authorized by law to prescribe
29 drugs, medicines, poisons, or chemicals that may be sold or dispensed only on
30 prescription;

31 (vi) Selecting, taking from, and replacing upon
32 shelves in the prescription department of a pharmacy or apothecary drugs,
33 medicines, chemicals, or poisons that are required by the laws of the United
34 States or the State of Arkansas to be sold or dispensed only on prescription
35 of a practitioner authorized by law to prescribe them;

36 (vii) Compounding, mixing, preparing, or combining

1 drugs, medicines, chemicals, or poisons that under the laws of the United
2 States or the State of Arkansas may be sold or dispensed only on the
3 prescription of a practitioner authorized by law to prescribe them;

4 (viii) Advising and providing information concerning
5 utilization of drugs and devices and participation in drug utilization
6 reviews;

7 (ix)(a) Performing a specific act of drug therapy
8 management or disease state management delegated to a pharmacist for an
9 individual patient based upon a written protocol or a patient care plan
10 approved by a physician, who shall be licensed in this state under the
11 Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq.,
12 and § 17-95-401 et seq.

13 (b) Drug therapy management shall not include
14 the selection of drug products not prescribed by the physician unless the
15 drug products are either named in the physician-initiated protocol or the
16 physician-approved patient care plan;

17 (x) Providing pharmacy care; and

18 (xi) Providing pharmacokinetic services.

19 (B) The provisions of subdivisions (16)(A) and (16)(C) of
20 this section shall not apply to employees of wholesale drug companies or
21 other drug distributors who do not fill prescriptions or sell or dispense
22 drugs to the consumer.

23 (C)(i) The Arkansas State Board of Pharmacy may permit
24 pharmacy technicians other than pharmacists or interns to perform some or all
25 of those functions described in board regulations under the direct, personal
26 supervision of a licensed pharmacist pursuant to regulations defining the
27 minimum qualifications of such employees, the ratio of pharmacy technicians
28 to supervising pharmacists, and the scope of the duties, practices, and
29 procedures that the Arkansas State Board of Pharmacy determines will promote
30 the delivery of competent, professional pharmaceutical services and promote
31 the public health and welfare. Nothing in this chapter shall be construed as
32 allowing pharmacy technicians to administer medications.

33 (ii) The conduct of a pharmacy technician is the
34 responsibility of the pharmacist-in-charge and supervising pharmacist of the
35 pharmacy who shall not permit the employee to perform any act, task, or
36 function that involves the exercise of independent judgment by the employee.

1 (iii) Pharmacy products prepared by pharmacy
2 technicians shall be verified for accuracy by the supervising pharmacist
3 prior to release for patient use, and the verification shall be documented.

4 (iv) The use of pharmacy technicians in a manner not
5 authorized by this chapter or regulations promulgated hereunder shall be
6 unprofessional conduct by the pharmacist-in-charge and the supervising
7 pharmacist.

8 (v) It is recognized that hospital pharmacy
9 technicians as defined in § 17-92-602(5) are governed by the Hospital
10 Pharmacies Act, § 17-92-601 et seq., and related Arkansas State Board of
11 Pharmacy regulations developed pursuant to that act;

12 (17) "Prescription" means an order for medicine or medicines
13 usually written as a formula by a physician, optometrist, dentist,
14 veterinarian, or other licensed medicinal practitioner. It contains the names
15 and quantities of the desired substance, with instructions to the pharmacist
16 for its preparation and to the patient for the use of the medicine at a
17 particular time;

18 (18) "Proprietary medicines", when not otherwise limited, means
19 remedies that a certain individual or individuals have the exclusive right to
20 manufacture or sell;

21 (19) "Supervision" means under the direct charge or direction of
22 and does not contemplate any continued absence of such supervision;

23 (20) "Therapeutically equivalent" means pharmaceutically
24 equivalent drug products that if administered in the same amounts will
25 provide the same therapeutic effect, identical in duration and intensity;

26 (21) "Veterinarian" means a practitioner of veterinary medicine
27 duly licensed under the laws of this or some other state; and

28 ~~(22)(A)~~ "Written protocol" means a physician's order, standing
29 medical order, standing delegation order, or other order or protocol as
30 defined by regulation of the Arkansas State Medical Board under the Arkansas
31 Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-
32 401 et seq.

33 ~~(B) Except for immunizations and vaccinations, which may~~
34 ~~be general protocols, protocols shall be patient or physician or~~
35 ~~pharmacist specific for prescriptions or orders given by the physician~~
36 ~~authorizing the protocol.~~

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/s/P. Malone