* * * Pharmacy * * *

Sec. 11. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

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§ 2022. DEFINITIONS

As used in this chapter:

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(15)(A) "Practice of pharmacy" means:

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(vii) ~~optimizing drug therapy through~~ the practice of clinical pharmacy; and

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(B) "Practice of clinical pharmacy" or "clinical pharmacy" means:

(i) the health science discipline in which, in conjunction with the patient's other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient's health and wellness;

(ii) providing patient care services within the pharmacist's authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; ~~or~~

(iii) practicing pharmacy pursuant to a collaborative practice agreement; or

(iv) prescribing as provided under section 2023 of this subchapter.

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§ 2023. CLINICAL PHARMACY; PRESCRIBING

(a) ~~In accordance with rules adopted by the Board, a~~ A pharmacist may engage in the practice of clinical pharmacy, including prescribing as set forth in subsection (b) of this section, provided that a pharmacist shall not, under any circumstance, independently initiate antibiotic therapy, nor prescribe a regulated drug as defined in 18 V.S.A. § 4201, a compounded drug, or a biological product as defined in 18 V.S.A. § 4601, except that a pharmacist may prescribe vaccines and insulin products.

(b) A pharmacist may prescribe in the following contexts:

(1) Collaborative practice agreement. A pharmacist may prescribe, for the patient or patients of a prescribing clinician licensed pursuant to this title, within the scope of a written collaborative practice agreement with that primary prescriber. The collaborative practice agreement shall ~~not permit the pharmacist to diagnose any condition and shall~~ require the pharmacist and collaborating clinician to contemporaneously notify each other of any change in the patient's pharmacotherapy or known medical status.

(2) State protocol. A pharmacist may prescribe in a manner consistent with valid State protocols approved by the Commissioner of Health or by the Director of Professional Regulation in consultation with the Board:

(A) opioid antagonists;

(B) epinephrine auto-injectors;

(C) tobacco cessation products;

(D) tuberculin purified protein derivative products;

(E) hormonal contraceptives;

(F) dietary fluoride supplements;

(G) vaccines; and

(H)~~(F)~~ drugs, drug categories, or devices that are prescribed in accordance with the product's federal Food and Drug Administration-approved labeling and that are limited to conditions that:

(i) do not require a new diagnosis;

(ii) are minor and generally self-limiting; or

(iii) are susceptible to identification using ~~have~~ a test ~~that is used~~ to guide diagnosis or clinical decision-making ~~and are~~ that is waived under the federal Clinical Laboratory Improvement amendments of 1988 and that is appropriate for pharmacotherapy within the scope of a pharmacist's clinical practice.

(3) Accessory devices. A pharmacist may prescribe accessory-type devices, such as spacers, needles, and diabetic testing supplies, where clinically indicated in the judgment of the pharmacist.

~~(4) Fluoride. A pharmacist may prescribe dietary fluoride supplements consistent with the American Dental Association's recommendations for persons whose drinking water is proven to have a fluoride content below the U.S. Department of Health and Human Services' recommended concentration.~~

(4)~~(5)~~ Prescriber-authorized substitution. A prescribing clinician licensed pursuant to this title may authorize a pharmacist to substitute a drug with another drug in the same therapeutic class that would, in the opinion of the pharmacist, have substantially equivalent therapeutic effect even though the substitute drug is not a therapeutic equivalent drug, provided:

(A) the prescriber has clearly indicated that drug product substitution is permissible by indicating "therapeutic substitution allowed" or similar designation;

(B) the drug product substitution is intended to ensure formulary compliance with the patient's health insurance plan or otherwise to minimize cost to the patient;

(C) the patient's voluntary, informed consent is obtained in writing; and

(D) the pharmacist or designee notifies the prescriber within five days of dispensing.

(5)~~(6)~~ Over-the-counter availability. A pharmacist may prescribe drugs lawfully available to consumers without prescription where appropriate to reduce costs to the patient, such as by drawing from a health savings account or flexible spending account.

(6)~~(7)~~ Exigency. A pharmacist may prescribe in the absence of a collaborative practice agreement as described in subdivision (1) of this subsection or of a State protocol as described in subdivision (2) of this subsection in cases where inability to immediately dispense would, in the professional judgment of the pharmacist, unnecessarily jeopardize the health or safety of the patient. In such cases, the pharmacist may only provide sufficient quantity to the patient until the patient is able to be seen by another provider and shall take all reasonable measures to notify the patient's primary care provider of record.

(c) Board rules shall:

(1) specify the required elements of a collaborative practice agreement;

(2) prohibit conflicts of interest and inappropriate commercial incentives related to prescribing, such as reimbursement based on brands or numbers of prescriptions filled, renewing prescriptions without request by a patient, steering patients to particular brands or selections of products based on any commercial relationships, or acceptance of gifts contrary to 18 V.S.A. § 4631a;

(3) delimit appropriate bounds of exigency-based prescribing; and

(4) establish minimum standards for patient privacy in clinical consultation.

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Sec. ___. PROTOCOL IMPLEMENTATION; TARGET DATES; RULEMAKING

(a) State protocols described in 26 V.S.A. § 2023(b)(2) shall be valid if signed by the Commissioner of Health or the Director of Professional Regulation. Active protocols shall be featured conspicuously on the website of the Board of Pharmacy. A protocol may be invalidated by a signed declaration by the Commissioner of Health finding that the protocol's continued operation would pose an undue risk to the public health, safety, or welfare; whereupon the Director shall remove the invalidated protocol from the Board website and shall cause electronic notice of discontinuation to be transmitted to all Vermont drug outlets.

(b) The Commissioner or the Director shall, by January 1, 2021, promulgate protocols respecting opioid antagonists, hormonal contraceptives, and vaccines. If unable to do so, the Commissioner and Director shall give affirmative notice to the House and Senate Committees on Government Operations.

(c) If the Board is unable to promulgate rules consistent with 26 V.S.A. § 2023(c) for adoption by January 1, 2021, it may and shall promulgate for adoption an emergency rule to meet that goal.