



SPONSOR: Rep. Bennett & Rep. K. Johnson & Sen. Pinkney
Reps. Baumbach, Dorsey Walker, Morrison, Osienski,
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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 399

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PRACTICE OF PHARMACY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 25, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underlines as follows and by redesignating accordingly:

3 § 2502. Definitions.

4 For purposes of this chapter:

5 (21) "Practice of pharmacy" means the interpreting, evaluating, and dispensing of a practitioner's or
6 prescriber's order. The "practice of pharmacy" includes the proper compounding, labeling, packaging, and dispensing
7 of a drug to a patient or the patient's agent, and administering a drug to a patient. The "practice of pharmacy" includes
8 the application of the pharmacist's knowledge of pharmaceuticals, pharmacology, pharmacokinetics, drug and food
9 interactions, drug product selection, and patient counseling. The "practice of pharmacy" also includes all of the
10 following:

11 a. Participation in drug utilization and/or drug regimen ~~reviews~~; reviews.

12 b. Participation in therapeutic drug selection, substitution of therapeutically equivalent drug ~~products~~;
13 products.

14 c. Advising practitioners and other health-care professionals, as well as patients, regarding the total scope
15 of drug therapy, so as to deliver the best care ~~possible~~; possible.

16 d. Monitoring drug ~~therapy~~; therapy.

17 e. Performing and interpreting capillary blood tests to screen and monitor disease risk factors or facilitate
18 patient education, the results of which must be reported to the patient's health-care practitioner; screening results
19 to be reported only if outside normal ~~limits~~; limits.

20 () Ordering, performing, and interpreting tests authorized by the Food and Drug Administration, and
21 waived under the federal Clinical Laboratory Improvement Amendments of 1988.

22 f. Conducting or managing a pharmacy or other business establishment where drugs are compounded or
23 ~~dispensed;~~ dispensed.

24 () Initiating drug therapy for health conditions in accordance with § 2525 of this title.

25 g. [Repealed.]

26 h. Administration of injectable medications, biologicals and adult immunizations pursuant to a valid
27 prescription or physician-approved protocol approved by a physician duly licensed in the State under subchapter
28 III of Chapter 17 of this title. Pharmacists shall request which physician or physicians and notify the physician or
29 physicians as designated by the patient of such administration within ~~24~~ 72 hours. The notice shall include the
30 patient's name, the name of the immunizations, inoculations or vaccinations administered, and the date of
31 administration and may be submitted by phone, fax, post or electronically. Upon request a copy of the protocol
32 will be made available to the designated physician or physicians without ~~costs;~~ costs.

33 i. Dispensing contraceptives or dispensing and administering injectable hormonal contraceptives under
34 Chapter 30O of Title 16.

35 § 2525. Testing, screening, and treatment of health conditions.

36 (a) Pursuant to a statewide written protocol, a pharmacist may order, test, screen, and treat health conditions that
37 include all of the following:

38 (1) Influenza.

39 (2) Group A Streptococcus Pharyngitis.

40 (3) SARS-COV-2 or other respiratory illness, condition, or disease.

41 (4) Lice.

42 (5) Urinary tract infection.

43 (6) Skin conditions, including ringworm and athlete's foot.

44 (7) Minor, uncomplicated infections.

45 (8) HIV.

46 (9) Other emerging and existing public health threats identified by the Department of Public Health including
47 preventative health, mental health, substance abuse disorders, and infectious disease prevention if permitted by an
48 order, rule, or regulation.

49 (b) A pharmacist who orders, tests, screens, or treats health conditions under this section may use any test that may
50 guide clinical decision making that is waived under the federal Clinical Laboratory Improvement Amendments of 1988, or
51 the federal rules adopted thereunder, or any established screening procedure that can safely be performed by a pharmacist.

52 (c) A pharmacist may delegate the administrative and technical tasks of performing a test waived by the federal
53 Clinical Laboratory Improvement Amendments of 1988 to an intern or pharmacy technician acting under the supervision of
54 the pharmacist.

55 (d) Prohibit the denial of reimbursement under health benefit plans for services and procedures performed by a
56 pharmacist that are within the scope of the pharmacist’s license and would be covered if the services or procedures were
57 performed by a physician, an advanced practice nurse, or physicians assistant.

SYNOPSIS

All human laboratory testing is regulated under the Clinical Laboratory Improvement Amendments of 1988 (“CLIA”). CLIA-waived tests are simple laboratory examinations and procedures that have an insignificant risk of an erroneous result. Common CLIA-waived tests include Influenza, HIV, COVID-19, and lipid-panel tests. Amid COVID-19 pandemic, the need for immediate diagnostic services that are close to home became vital. This bill authorizes pharmacists to order and perform tests authorized by the FDA and CLIA-waived and provide treatment for such health conditions.