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2023 legislative update Board of Pharmacy

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2023 Legislative Update Board of Pharmacy

The following bills were enacted by the General Assembly during the 2023 legislative session and may impact the Board of Pharmacy and/or the Board of Pharmacy licensees:

The Narcotics Treatment Program Act, [H.3870/Act 43](#)

The Act amends the Pharmacy Practice Act to add Section 40-43-72 regarding the regulation of Narcotic Treatment Programs (NTPs). The Act defines an NTP as a program licensed by DHEC that dispenses and administers methadone or other narcotic treatment medications. NTPs will be required to apply for and be issued an NTP permit by the Board of Pharmacy before methadone or other narcotic treatment medications could be administered, dispensed, or delivered at the NTP. NTPs will be required to retain a pharmacist-in-charge (PIC) who, along with the NTP permit holder, would be required to sign the application for the NTP permit. The PIC will be required to agree in writing to assume the responsibilities of PIC for the NTP. NTPs will be subject to annual inspection by the Board of Pharmacy.

A pharmacist will be required to be physically present at the NTP to dispense drugs for administration and to dispense and label drugs for delivery to patients for at-home use. A pharmacist will *not* be required to be physically present at the NTP when drugs are administered or delivered to patients for at-home use, provided that the PIC must be onsite a sufficient amount of time necessary to perform all duties. Regulations or guidance by the Board of Pharmacy establishing specific percentages of time or hours during which a PIC must be physically present at a pharmacy do not apply to the PIC of an NTP. Also, a PIC of an NTP will not be allowed to be the PIC for more than two NTP permit holders, not including NTP satellites, which are defined in this Act as being mobile components or satellite medication units operated by a licensed NTP.

A “practitioner agent”, defined in the Act as an RN or LPN supervised by and under the order of a practitioner, defined as a physician, APRN or PA, will be allowed to administer and deliver doses of narcotic drugs which have been previously prepared, checked, and labeled with a patient-specific label by a pharmacist. If a practitioner-ordered dose change is needed immediately, and a pharmacist is not physically present at the NTP, a stat box with properly labeled stock doses must be used to provide immediate service to a patient. (“Stat box” is an additional drug box that contains stock doses of medications prepared by a pharmacist prior to receipt of a patient-specific order form a practitioner). The Act further clarifies that a practitioner agent performing administration and delivery of medications in an NTP will not be required to register as a pharmacy technician.

The NTP will not be required to comply with the practice act provision mandating that a pharmacy shall have a pharmacist who, while on duty, is responsible for the security of the pharmacy department including provision of effective control against theft or diversion of drugs or devices or both, to allow practitioners and practitioner agents access to an NTP pharmacy at a time when a pharmacist is not on duty for the purpose of obtaining drugs from the NTP pharmacy’s medication safe for administration and retrieving pharmacist-verified take-home doses of narcotics

for delivery. The Act provides that the bulk inventory must be secured against access and alteration when the pharmacist is not present.

The Act further provides that a pharmacist will be in compliance with the practice act requirements of patient counseling by ensuring that written directions for use and other information relating to proper utilization of the medication prescribed are included with each new order of medication delivered by the NTP. The written information must include a telephone number at which the pharmacist may be contacted by patients.

The Act also states that an NTP satellite permit holder (mobile) is exempt from the requirements of subsections (D)(1) of the Act related to the pharmacist's physical present at the NTP and (D)(2) of the Act related to practitioner agents administering and dispensing and may facilitate the administration and delivery of take-home doses of narcotic drugs without the presence of a pharmacist so long as the doses are prepared in advance by a pharmacist; and utilize a stat box.

Effective date: May 16, 2023

Pharmacy Audits, Pharmacy Benefits Managers, and Pharmacy Services Administrative Organizations, [S.520/Act 30](#)

The Act amends the SC Department of Insurance laws regarding Pharmacy Audit Rights and Pharmacy Benefit Managers. A definition of "Pharmacy Services Administrative Organization" (PSAO) is added to the Pharmacy Benefit Managers Article. The Act also adds a new Article 23 for the regulation of PSAOs.

Effective date: January 1, 2024, but recurring examinations by the Department of Insurance provided for in Sections 38-71-2250(B)(1) and 38-71-2340(B)(1) must not begin before January 1, 2025.

Exemptions from Pharmacy Practice Act, Death Penalty Shield Law, [S.120/Act 16](#)

The Act amends Section 24-3-580 to provide a limited exemption for any pharmacy or pharmacist that is involved in the supplying, manufacturing or compounding of any drug intended for use by the SC Department of Corrections in the administration of the death penalty from all licensing, dispensing and possession laws, processes, regulations and requirements of or administered by SC Department of Labor, Licensing and Regulation, the SC Board of Pharmacy, and any other state agency or entity. This exemption shall not apply to any licensure or permitting requirements for the supply, manufacture, or compounding of any other legend drug or pharmaceutical device.

Effective date: May 12, 2023

Authorization for Coroners, Deputy Coroners, or Coroner’s Designee to Possess and Administer Opioid Antidotes, [H.3691/Act 66](#)

The Act adds Section 17-5-135 to allow a coroner, deputy coroner, or his designee to possess and administer an opioid antidote pursuant to the requirements of the South Carolina Overdose Prevention Act (SCOPA). The coroner, deputy coroner, or coroner’s designee must comply with all of the requirements of Section 44-130-90 of the SCOPA and will be entitled to immunity from civil or criminal liability or professional disciplinary action when administering an opioid antidote to a person he believes in good faith is experiencing an opioid overdose.

The Act also adds Section 44-130-90 to SCOPA. To comply with Section 44-130-90 of SCOPA, the coroner, deputy coroner, or coroner’s designee who administers an opioid antidote shall report, within thirty days, information about the opioid antidote administration to the DHEC Bureau of Emergency Medical Services (BEMS) for inclusion in the prescription monitoring program. DHEC BEMS shall transmit the information to DHEC’s Bureau of Drug Control, which shall verify whether any prescription history of the person appears in the prescription monitoring program, and if prescription history exists, shall document for review by a practitioner or authorized delegate the date on which the opioid antidote was administered. DHEC’s Bureau of Drug Control shall also maintain data on the administration of opioid antidotes by coroners, deputy coroners, or coroner’s designees.

Section 17-5-510 is also amended to read that a coroner is considered a public safety officer under 34 U.S.C. Section 10281 if killed in the line of duty.

Effective date: May 19, 2023

Administration of lifesaving medications in schools, [H.4122/Act 47](#)

The Act amends Section 59-63-95, the Safe Access to Vital Epinephrine Act, which allowed school districts and private schools, in consultation with the Department of Education and DHEC, to implement a plan for use of epinephrine in the management of students with life-threatening allergies. The Act now allows for use of other lifesaving medications, no longer limiting the plan to use of epinephrine. DHEC and the Department of Education are responsible for determining which medications should be allowed for use. The Act also expands the use to “medical emergencies” rather than allergic reactions only.

Effective date: May 16, 2023

Disclaimer: This legislative update is not intended as legal advice. LLR is providing this legislative update to notify licensees of recently enacted legislation that may impact his or her practice area or license. This legislative update provides only a high level overview of enacted legislation and licensees are urged to review the entire enacted legislation, which is available in the hyperlinks above.