INTERIM STUDY PROPOSAL 2025-111

State of Arkansas
95th General Assembly

A Bill

JMB/JMB
SENATE BILL

By: Senator NA

Filed with: Senate Committee on Public Health, Welfare, and Labor pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO MODIFY THE DEFINITIONS RELATED TO PHARMACY AND PHARMACISTS TO ALLOW A STANDARD-OF-CARE APPROACH; TO ESTABLISH PHARMACIST REIMBURSEMENT PARITY FOR SERVICES PROVIDED BY A PHARMACIST; AND FOR OTHER PURPOSES.

Subtitle

TO MODIFY THE DEFINITIONS RELATED TO PHARMACY AND PHARMACISTS TO ALLOW A STANDARD-OF-CARE APPROACH; AND TO ESTABLISH PHARMACIST REIMBURSEMENT PARITY FOR SERVICES PROVIDED BY A PHARMACIST.

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

SECTION 1. Arkansas Code § 17-92-101 is amended to read as follows:

17-92-101. Definitions.

As used in this chapter:

(1) "Biological product" means a biological product as defined by 42 U.S.C. §262(i)(1), as it existed on January 1, 2019;

(2) "Credentialing" means the issuance of or approval by the Arkansas State Board of Pharmacy of a credential issued to a pharmacist by an

agency approved by the Arkansas State Board of Pharmacy certifying that the pharmacist has met the standards of competency established by the Arkansas State Board of Pharmacy for pharmacy services necessitating a credential;

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

~~(4)(A) "Disease state management" means a strategy that utilizes a team-oriented, multidisciplinary approach to improve healthcare outcomes and quality of care, and when possible, to control healthcare cost through management of targeted chronic disease states.~~

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

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

~~(5)~~(4) "Drug" shall include all medicines and preparations recognized in the United States Pharmacopeia — National Formulary (USP-NF) as substances intended to be used for the care, mitigation, or prevention of disease of either man or other animals;

~~(6)~~(5) "Generically equivalent" means a drug that is pharmaceutically and therapeutically equivalent to the drug prescribed;

~~(7)~~(6) "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome (AIDS);

(7) "Hospital campus" means the main buildings of the hospital, including areas and structures that are not strictly contiguous to the main buildings, but excluding parking lots and other parcels dedicated to the public's use;

(8) "Interchangeable biological product" means a biological product that is interchangeable as defined by 42 U.S.C. §262(i)(3), as it existed on January 1, 2019;

(9)(A) "Licensed pharmacist" means a person holding a license under the provisions of this chapter.

(B) A "licensed pharmacist" shall be considered an individual healthcare provider;

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

(11) "Optometrist" means a practitioner of optometry duly

licensed under the laws of this state;

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

(13) "Pharmaceutically equivalent" means drug products that have identical amounts of the same active chemical ingredients in the same dosage form and that meet the identical, compendious, or other applicable standards of strength, quality, and purity according to the United States Pharmacopeia — National Formulary (USP-NF) or another nationally recognized compendium;

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

~~(15) "Pharmacy care" means the process by which a pharmacist in consultation with the prescribing practitioner identifies, resolves, and prevents potential and actual drug-related problems and optimizes patient therapy outcomes through the responsible provision of drug therapy or disease state management for the purpose of achieving any of the following definite outcomes that improve a patient's quality of life:~~

~~(A) Cure of disease;~~

~~(B) Elimination or reduction of a patient's symptomology;~~

~~(C) Arresting or slowing a disease process; or~~

~~(D) Preventing a disease or symptomology;~~

~~(16)~~(15) "Physician" means a practitioner of medicine duly licensed under the laws of this or some other state;

~~(17)~~(16) "Poisons" means any drug, chemical, medicine, or preparation liable to be destructive to adult human life in quantities of sixty (60) grains or less;

~~(18)(A)~~(17)(A) "Practice of pharmacy" means the ~~healthcare provider profession of~~ provision of healthcare services and the operation of a pharmacy by a pharmacist that is based on his or her education, training, and experience and determined by his or her practice setting and is in accordance with generally accepted standards of care, including without limitation:

(i) The interpreting and evaluating of prescription orders;

(ii) The compounding, dispensing, labeling, administering, selling, bartering, and distributing of drugs, medicines, poisons, chemicals, and devices that under federal and state laws may only be sold or dispensed on the order of a practitioner authorized by law to prescribe drugs, medicines, poisons, chemicals, and devices;

(iii)(a) The prescribing, ordering, administering, diagnosing, and interpreting of laboratory tests, blood pressure tests, other tests and diagnostic tools, controlled and noncontrolled drugs, and devices in accordance with applicable state and federal law.

(b) If prescribing a controlled substance, the pharmacist shall:

(1) Be subject to the same restrictions and requirements imposed on physicians under state and federal law; and

(2) Before prescribing the controlled substance, register with the United States Drug Enforcement Administration;

(iv) The assessing and examining of a patient, or interpreting the result of a test or diagnostic tool, for purposes of diagnosis including without limitation:

(a) Initiation, modification, or termination of care or drug therapy; or

(b) Referral to another healthcare provider;

(v) The initiating and providing of care, including independently prescribing, administering, or monitoring or a combination of prescribing, administering, or monitoring drugs and drug-related therapies, including without limitation:

(a) Vaccines and immunizations;

(b) Drugs or devices to treat:

(1) Conditions that have a test that is:

(A) Used to guide diagnosis and clinical decision-making; and

(B) Waived under federal law;

(2) Chronic conditions, including without limitation hypertension, hyperlipidemia, obesity, and diabetes;

(3) Opioid use disorder; and

(4) Other conditions for which the pharmacist has the proper education, training, or experience to treat;

(c) Contraceptives;

(d) Pre-exposure and post-exposure prophylaxis for HIV;

(e) Opioid antagonists;

(f) Nicotine replacement therapies and other tobacco cessation products; and

(g) Over-the-counter drugs, medications, and supplies;

(vi) The providing of:

(a) Emergency refills under § 17-92-102(d); and

(b) Care to a patient or group of patients under a written protocol;

(vii) The performance of drug utilization reviews and medication therapy management;

(viii) The adapting of a patient's prescription to improve the patient's health outcome, including modifying the quantity of a prescription or substituting a medication;

(ix) The educating and counseling of patients and healthcare professionals on the therapeutic use, potential hazards, and outcomes of drugs and devices;

(x) The maintaining of appropriate records and the safe storage and handling of drugs and devices;

(xi) The interprofessional communicating with appropriate healthcare providers to ensure the continuity of care for a patient;

(xii) The supervising and delegating of tasks and duties to pharmacy technicians and pharmacy interns; and

(xiii) Any other professional act, service, operation, or transaction necessary to the operation and management of the pharmacy.

(B) "Practice of pharmacy" does not limit or restrict the provision of patient care services by a pharmacist otherwise authorized by federal or state law, including the delegation of care by a physician under a written protocol;

~~(i)(a) Dispensing, selling, distributing,~~

~~transferring possession of, vending, bartering, or, in accordance with rules adopted by the Arkansas State Board of Pharmacy, administering drugs, medicines, poisons, or chemicals that under the laws of the United States or the State of Arkansas may be sold or dispensed only on the prescription and order of a practitioner authorized by law to prescribe drugs, medicines, poisons, or chemicals.~~

~~(b) Except as limited by rules adopted by the Arkansas State Board of Pharmacy, a pharmacist has the ability to administer medications.~~

~~(c) A pharmacist may prescribe, administer, deliver, distribute, or dispense medications that treat adverse reactions associated with the administration of vaccines and immunizations, vaccines, and immunizations to or for a person three (3) years of age or older.~~

~~(d) A pharmacist who prescribes and administers vaccines and immunizations other than for influenza or coronavirus 2019 (COVID-19) to a person who is three (3) years of age to six (6) years of age shall:~~

~~(1) Participate in the federal Vaccines for Children Program; and~~

~~(2) Inform the person who is three (3) years of age to six (6) years of age and adult caregivers accompanying the person who is three (3) years of age to six (6) years of age of the importance of a well-child visit with a pediatrician or other licensed primary care provider and recommend a well-child visit at least yearly.~~

~~(e)(1) A pharmacist may administer medications other than medications that treat adverse reactions associated with the administration of vaccines and immunizations, vaccines, and immunizations under a patient-specific order or prescription or general written protocol.~~

~~(2) The administration of the medication under subdivision (18)(A)(i)(e)(1) of this section is subject to reporting to the prescribing physician, if applicable.~~

~~(f) A general written protocol and patient-specific orders or prescriptions under subdivision (18)(A)(i)(e) of this section shall be from a physician licensed by the Arkansas State Medical Board and practicing in Arkansas or within fifty (50) miles of the Arkansas border.~~

~~(g) Under a statewide protocol, a pharmacist may initiate therapy and administer or dispense, or both, drugs that include Naloxone, nicotine replacement therapy products, oral contraceptives, HIV pre-exposure prophylaxis, and HIV post-exposure prophylaxis;~~

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

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

~~(iv) Preparing, typing, or writing labels to be placed in or affixed on any container described in subdivision (18)(A)(ii) of this section, which label is required to be placed upon drugs, medicines, poisons, or chemicals sold or dispensed upon prescription of a practitioner authorized by law to prescribe those drugs, medicines, poisons, or chemicals;~~

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

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

~~(vii) Compounding, mixing, preparing, or combining drugs, medicines, chemicals, or poisons that under the laws of the United States or the State of Arkansas may be sold or dispensed only on the prescription of a practitioner authorized by law to prescribe them;~~

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

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

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

~~(x)(a) Providing pharmacy care.~~

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

~~(1) Influenza;~~

~~(2) Pharyngitis caused by streptococcus A; or~~

~~(3) Other health conditions that can be screened utilizing the waived test under the Clinical Laboratory Improvement Amendments of 1988, 42 U.S.C. § 263a, that may be adopted by rule of the Arkansas State Board of Pharmacy, in consultation with and upon approval of the Arkansas State Medical Board.~~

~~(c) A pharmacist shall only treat conditions for which the pharmacist has tested and that are approved under subdivision (18)(A)(x)(b) of this section.~~

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

~~(A) A formulary of medicinal drugs that a pharmacist may prescribe for treatment of conditions listed in subdivision (18)(A)(x)(b) of this section; and~~

~~(B) A written statewide protocol for conditions listed in subdivision (18)(A)(x)(b) of this section, which shall include without limitation the age of people that can be treated and medications to be used to treat people under this subdivision (18)(A)(x)(d)(1)(B).~~

~~(2) The formulary shall include~~

~~medicinal drugs approved by the United States Food and Drug Administration which are indicated for treatment of these conditions, including without limitation any over-the-counter medication.~~

~~(3) The formulary shall not include any controlled substance in Schedules I – IV or 21 U.S.C. § 812, as existing on January 1, 2021.~~

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

~~(xi) Providing pharmacokinetic services.~~

~~(B) The provisions of subdivisions (18)(A) and (18)(C) of this section shall not apply to employees of wholesale drug companies or other drug distributors who do not fill prescriptions or sell or dispense drugs to the consumer.~~

~~(C)(i) The Arkansas State Board of Pharmacy may permit pharmacy technicians other than pharmacists or interns to perform some or all of those functions described in Arkansas State Board of Pharmacy rules under the direct, personal supervision of a licensed pharmacist under rules defining the minimum qualifications of such employees, the ratio of pharmacy technicians to supervising pharmacists, and the scope of the duties, practices, and procedures that the Arkansas State Board of Pharmacy determines will promote the delivery of competent, professional pharmaceutical services and promote the public health and welfare.~~

~~(ii) A pharmacy technician may administer vaccines and immunizations to a person three (3) years of age or older if delegated to do so by a supervising pharmacist, but may not administer other medications.~~

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

~~(iv) Pharmacy products prepared by pharmacy technicians shall be verified for accuracy by the supervising pharmacist before release for patient use, and the verification shall be documented.~~

~~(v) The use of pharmacy technicians in a manner not authorized by this chapter or rules promulgated hereunder shall be unprofessional conduct by the pharmacist-in-charge and the supervising pharmacist.~~

~~(vi) It is recognized that hospital pharmacy technicians as defined in § 17-92-602(4) are governed by the Hospital Pharmacies Act, § 17-92-601 et seq., and related Arkansas State Board of Pharmacy rules developed under the Hospital Pharmacies Act, § 17-92-601 et seq.;~~

~~(19)(A)(i)~~(18)(A)(i) "Prescription" means an order for medicine or medicines usually written as a formula by a physician, pharmacist, optometrist, dentist, veterinarian, or other licensed medicinal practitioner.

(ii) A prescription contains the names and quantities of the desired substance, with instructions to the pharmacist for its preparation and to the patient for the use of the medicine at a particular time and may authorize the pharmacist to substitute a therapeutically equivalent drug that is at an equal or lower cost to the patient and communicate that authorization by any generally accepted means of communication of a prescription from a prescriber to a pharmacist.

(B)(i) A pharmacist whose practice is located within this state may substitute one (1) medication for a therapeutically equivalent medication.

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

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

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

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

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

(ii) The discussion under subdivision ~~(19)(C)(i)~~(18)(C)(i) of this section shall include without limitation:

(a) Notification to the patient that the therapeutically equivalent drug does not contain the identical active

ingredient present in the prescribed drug; and

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

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

~~(E)~~ Subdivision ~~(19)(B)~~(18)(B) of this section does not apply to ~~specific~~ acts of drug therapy management ~~or disease state management~~ delegated to a pharmacist based upon a written protocol or patient care plan approved by a physician under subdivision ~~(18)(A)(ix)~~(18)(B)(i) of this section;

(19)(A) "Pharmacy technician" means an employee of a pharmacy or licensed pharmacist who may perform some or all functions of the practice of pharmacy under the supervision of a licensed pharmacist.

(B) The Arkansas State Board of Pharmacy shall adopt rules defining:

(i) The minimum qualifications of pharmacy technicians;

(ii) The ratio of pharmacy technicians to supervising pharmacists; and

(iii) The scope of the duties, practices, and procedures that the Arkansas State Board of Pharmacy determines will promote the delivery of competent, professional pharmaceutical services and promote the public health and welfare.

(C) A pharmacy technician may administer vaccines, immunizations, and other medications if delegated to do so by a supervising pharmacist.

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

(E)(i) A pharmacy product prepared by a pharmacy technician shall be verified for accuracy by the supervising pharmacist before release for patient use.

(ii) The pharmacist shall document the verification

made under subdivision (19)(E)(i) of this section.

(F) The use of a pharmacy technician in a manner not authorized by this chapter or rules promulgated by the Arkansas State Board of Pharmacy is unprofessional conduct by the pharmacy permit holder, pharmacist in charge, and the supervising pharmacist.

(G) A hospital pharmacy technician as defined in § 17-92-602 is governed by the Hospital Pharmacies Act, § 17-92-601 et seq., and related Arkansas State Board of Pharmacy rules developed under the Hospital Pharmacies Act, § 17-92-601 et seq.;

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

~~(21) "Statewide protocol" means a standardized procedure or protocol approved by the Arkansas State Board of Pharmacy and the Arkansas State Medical Board authorizing a pharmacist to initiate therapy and administer or dispense, or both, a drug or device;~~

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

~~(23)~~(22) "Therapeutic class" means a group of similar drug products that have the same or similar mechanisms of action and are used to treat a specific condition;

~~(24)~~(23) "Therapeutically equivalent" means drug products from the same therapeutic class that if administered in appropriate amounts will provide the same therapeutic effect, identical in duration and intensity;

~~(25)~~(24) "Veterinarian" means a practitioner of veterinary medicine duly licensed under the laws of this or some other state; and

~~(26)~~(25) "Written protocol" means a physician's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Arkansas State Medical Board under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.~~; and~~

~~(27) "Hospital campus" means the main buildings of the hospital, including areas and structures that are not strictly contiguous to the main building, but excluding parking lots and other parcels dedicated to the public's use.~~

SECTION 2. Arkansas Code § 17-92-105(a), concerning the prohibited acts related to the practice of pharmacy and penalties, is amended to read as follows:

(a) ~~Violation of any part of this section and § 17-92-101, § 17-92-102, § 17-92-103, § 17-92-205(b), § 17-92-206(b), § 17-92-303, § 17-92-402, § 17-92-404, § 17-92-405, § 17-92-409, § 17-92-410, and § 17-92-411(a) not otherwise provided for shall be a violation and shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300)~~ The following conduct is a violation and shall be punished by a fine of not more than five hundred dollars ($500):

(1) Violation of any prohibition, restriction, or requirement established by this chapter or by any rule promulgated by the Arkansas State Board of Pharmacy; or

(2) Otherwise engaging in conduct that departs from or fails to conform with the accepted standards of care that would be provided in a similar setting by a reasonably prudent pharmacist, pharmacy intern, or pharmacy technician with similar education, training, or experience.

SECTION 3. Arkansas Code § 17-92-115 is repealed.

~~17-92-115. Requirements for administering and dispensing under statewide protocol.~~

~~(a) When initiating therapy and administering or dispensing, or both, under a statewide protocol, a pharmacist shall:~~

~~(1) Notify the primary care provider of the patient of any drug or device furnished to the patient or enter the appropriate information in a patient record system shared with the primary care provider, as permitted by the primary care provider;~~

~~(2) Provide the patient with a written record of the drugs or devices furnished and advise the patient to consult a physician of the patient's choice, if the patient does not have a primary care provider; and~~

~~(3)(A) Make a standardized fact sheet available to the recipient of the drug or device.~~

~~(B) The standardized fact sheet shall include without limitation:~~

~~(i) The indications and contraindications for the~~

~~use of the drug or device;~~

~~(ii) The appropriate method for the use of the drug or device;~~

~~(iii) The need for medical follow-up; and~~

~~(iv) Other appropriate information.~~

~~(b)(1) In addition to the requirements under subsection (a) of this section, when initiating therapy and administering or dispensing, or both, oral contraceptives under a statewide protocol, a pharmacist shall:~~

~~(A) Complete a training program related to oral contraceptives that has been approved by the Arkansas State Board of Pharmacy;~~

~~(B)(i) Screen a patient seeking oral contraceptives to assess whether the patient has been seen by a primary care provider or women's healthcare provider within the previous six (6) months.~~

~~(ii) If the patient has not been seen by a primary care provider or women's healthcare provider within the previous six (6) months, the pharmacist shall:~~

~~(a) Provide the patient with a referral to a local primary care provider or women's healthcare provider; and~~

~~(b) Not dispense more than a six-month supply of oral contraceptives or the equivalent number of refills to the patient until the patient has been seen by a primary care provider or women's healthcare provider.~~

~~(iii) A pharmacist shall not provide the patient with a referral to a licensed abortion provider.~~

~~(iv) The board shall adopt screening assessment procedures and questionnaires to be used by pharmacists throughout the state;~~

~~(C)(i) Explain verbally to the patient the possible effects of an oral contraceptive, including without limitation the death of an unborn child and possible health complications or adverse reactions as printed by the United States Food and Drug Administration.~~

~~(ii) The patient and pharmacist shall sign an informed consent form that documents the explanation described in subdivision (b)(1)(C)(i) of this section and place the form in the patient's medical record;~~

~~(D) Report the following information to the Department of~~

~~Health:~~

~~(i) The number of women who receive oral contraceptives without a prescription; and~~

~~(ii) The age of the women who receive oral contraceptives without a prescription;~~

~~(E) Provide a standardized information sheet about the oral contraceptive dispensed to the patient; and~~

~~(F) Write a summary of consultation to be maintained in the patient's medical record.~~

~~(2) A pharmacist shall only initiate therapy and administer or dispense, or both, oral contraceptives under a statewide protocol to an individual who is eighteen (18) years of age or older.~~

~~(c)(1) In addition to the requirements under subsection (a) of this section, when initiating therapy and administering or dispensing, or both, for HIV pre-exposure prophylaxis or HIV post-exposure prophylaxis, or both, under a statewide protocol, a pharmacist shall:~~

~~(A) Within twelve (12) months of initiating therapy and administering or dispensing, or both, complete a training program approved by the board on the use of HIV pre-exposure prophylaxis and HIV post-exposure prophylaxis, which shall include information about:~~

~~(i) Financial assistance programs for HIV pre-exposure prophylaxis and HIV post-exposure prophylaxis; and~~

~~(ii) Relevant federal guidelines regarding HIV pre-exposure prophylaxis and HIV post-exposure prophylaxis; and~~

~~(B) Not permit a patient to waive consultation for HIV pre-exposure prophylaxis or HIV post-exposure prophylaxis.~~

~~(2) Under a statewide protocol, a pharmacist shall dispense at least a thirty-day supply and up to a sixty-day supply of HIV pre-exposure prophylaxis if:~~

~~(A)(i) The patient is HIV-negative as documented by a negative HIV test result obtained within the previous seven (7) days from:~~

~~(a) An HIV antigen/antibody test;~~

~~(b) An HIV antibody-only test; or~~

~~(c) A rapid, point-of-care fingerstick blood test approved by the United States Food and Drug Administration.~~

~~(ii) If the test results are not transmitted~~

~~directly to the pharmacist, the pharmacist shall verify the test results.~~

~~(iii) If the patient tests positive for HIV infection, the pharmacist shall direct the patient to a primary care provider and provide a list of providers and clinics in the region.~~

~~(iv) If the patient does not provide evidence of a negative HIV test, the pharmacist shall test and administer an HIV test and interpret the test results;~~

~~(B) The patient does not report:~~

~~(i) Any signs or symptoms of acute HIV infection on a self-reported checklist of acute HIV infection signs and symptoms; and~~

~~(ii) Usage of any contraindicated medication;~~

~~(C) The pharmacist provides counseling to the patient on the ongoing use of HIV pre-exposure prophylaxis, which shall include education about:~~

~~(i) Side effects;~~

~~(ii) Safety during pregnancy and breastfeeding;~~

~~(iii) Adherence to recommended dosing;~~

~~(iv) The importance of timely testing and treatment for HIV, renal function, hepatitis B, hepatitis C, sexually transmitted diseases, and pregnancy for individuals of childbearing capacity; and~~

~~(v) The requirement that subsequent prescriptions for HIV pre-exposure prophylaxis be issued by a primary care provider; and~~

~~(D) To the extent possible, the pharmacist documents the services provided by the pharmacist in the patient record system shared with the primary care provider.~~

~~(3) Under a statewide protocol, a pharmacist shall dispense a course of HIV post-exposure prophylaxis if the pharmacist:~~

~~(A) Screens the patient and determines that the exposure to HIV occurred within the previous seventy-two (72) hours and that the patient otherwise meets the clinical criteria for HIV post-exposure prophylaxis;~~

~~(B) Provides HIV testing or determines that the patient is:~~

~~(i) Willing to undergo HIV testing consistent with federal guidelines; or~~

~~(ii) Unwilling to undergo HIV testing but otherwise~~

~~eligible for HIV post-exposure prophylaxis;~~

~~(C) Provides counseling to the patient on the ongoing use of HIV post-exposure prophylaxis, which shall include education about:~~

~~(i) Side effects;~~

~~(ii) Safety during pregnancy and breastfeeding;~~

~~(iii) Adherence to recommended dosing;~~

~~(iv) The importance of timely testing and treatment for HIV, renal function, hepatitis B, hepatitis C, sexually transmitted diseases, and pregnancy for individuals of childbearing capacity; and~~

~~(v) The availability of HIV pre-exposure prophylaxis for a person who is at a substantial risk of acquiring HIV; and~~

~~(D) To the extent possible, documents the services provided by the pharmacist in the patient record system shared with the primary care provider.~~

SECTION 4. Arkansas Code § 17-92-118 is repealed.

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

~~A pharmacist who tests for conditions under § 17-92-101(18)(A)(x) shall:~~

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

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

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

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

SECTION 5. Arkansas Code Title 17, Chapter 92, Subchapter 1, is amended to add an additional section to read as follows:

17-92-122. Standard of care — Delegation.

(a) To determine whether a specific action is within the practice of pharmacy in this state or can be delegated to other individuals under a pharmacist's supervision, a licensee of the Arkansas State Board of Pharmacy shall independently determine whether:

(1) The action is expressly prohibited by:

(A) This chapter;

(B) The Uniform Controlled Substances Act, § 5-64-101 et seq.; or

(C) Any other applicable state or federal laws, regulations, or rules;

(2) The action is consistent with the licensee's education, training, and experience; and

(3) Performance of the action is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent individual with similar education, training, and experience.

(b) The board may use its disciplinary authority under § 17-92-105 and § 17-92-311 to evaluate whether a specific act is within the practice of pharmacy or whether an act can be delegated to a pharmacy technician or pharmacy intern under pharmacist supervision.

SECTION 6. Arkansas Code § 17-92-311(a), concerning the grounds for revocation, suspension, or nonrenewal of a pharmacist license, is amended to add an additional subdivision to read as follows:

(12) The person has engaged in conduct that departs from or fails to conform with the accepted standards of care that would be provided in a similar setting by a reasonably prudent pharmacist, pharmacy intern, or pharmacy technician with similar education, training, or experience.

SECTION 7. Arkansas Code § 17-92-801(a), concerning the powers and duties of the Arkansas State Board of Pharmacy regarding the certification and registration of pharmacy technicians, is amended to read as follows:

(a) The Arkansas State Board of Pharmacy shall provide that hospital pharmacy technicians as defined in § 17-92-602 and pharmacy technicians as defined in ~~§ 17-92-101(18)(C)~~ § 17-92-101, and hereinafter referred to as pharmacy technicians, register with or be certified by the board, or both.

SECTION 8. Arkansas Code Title 23, Chapter 79, Subchapter 1, is amended to add an additional section to read as follows:

23-79-172. Pharmacist reimbursement parity — Definition.

(a) As used in this section, "health plan" means:

(1) An individual, blanket, or group plan, policy, or contract for healthcare services issued, renewed, or extended in this state by a

healthcare insurer, health maintenance organization, hospital medical service corporation, or self-insured governmental or church plan in this state; and

(2) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program and the Arkansas Health and Opportunity for Me Program established by the Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq.

(b) A health plan shall not refuse to reimburse a pharmacist at the full rate for healthcare services provided by a pharmacist if the practice complies with the laws of this state.

(c) A health plan shall not impose a practice or supervision restriction on a pharmacist that is inconsistent with or more restrictive than restrictions already imposed by the laws of this state.

SECTION 9. TEMPORARY LANGUAGE. Statewide protocol repeal or withdrawal - Rule review

(a) On or before January 1, 2028, the Arkansas State Board of Pharmacy and the Arkansas State Medical Board shall repeal or withdraw any statewide protocol for pharmacists that is in effect on the effective date of this act.

(b) On or before July 1, 2028, the Arkansas State Board of Pharmacy shall complete a review of all rules adopted by the Arkansas State Board of Pharmacy and determine whether the rules are needed.

Referred by Senator C. Penzo
Prepared by: JMB/JMB