

## VIRGINIA BOARD OF PHARMACY

### PRACTITIONER/PATIENT RELATIONSHIP AND THE PRESCRIBING OF DRUGS FOR FAMILY OR SELF

~~In October 2005, the Board of Medicine promulgated regulations regarding a practitioner prescribing for self or family that replaced a previous guidance document on this subject. Section 18 VAC 85-20-25 applies to practitioners of medicine, osteopathic medicine, and podiatry. The same language was also included in the regulations for physician assistants and nurse practitioners. This issue has not been addressed in regulations of the Boards of Dentistry, however, in order to be a valid prescription, the requirements of §54.1-3303 would need to be met. The Board of Optometry addressed this issue in Regulation 18VAC105-20-40.~~

Several health regulatory boards that license prescribers have adopted regulations regarding a practitioner prescribing for self or family. Regulations for the Board of Medicine (18VAC85-20-25) apply to practitioners of medicine, osteopathic medicine, and podiatry. Identical language is included in regulations for physician assistants (18VAC85-50-176) and nurse practitioners (18VAC90-40-121). The Board of Optometry addressed this issue in 18VAC105-20-40.

While this issue has not been specifically addressed in regulations of the Board of Dentistry, the requirements of §54.1-3303 would need to be met by all prescribers in order for there to be a valid prescription.

#### **18VAC85-20-25. Treating and prescribing for self or family**

*A. Treating or prescribing shall be based on a bona fide practitioner-patient relationship, and prescribing shall meet the criteria set forth in § 54.1-3303 of the Code of Virginia.*

*B. A practitioner shall not prescribe a controlled substance to himself or a family member, other than Schedule VI as defined in § 54.1-3455 of the Code of Virginia, unless the prescribing occurs in an emergency situation or in isolated settings where there is no other qualified practitioner available to the patient, or it is for a single episode of an acute illness through one prescribed course of medication.*

*C. When treating or prescribing for self or family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.*

#### **18VAC105-20-40. Standards of conduct.**

*The board has the authority to deny, suspend, revoke, or otherwise discipline a licensee for a violation of the following standards of conduct. A licensed optometrist shall:*

*9. Treat or prescribe based on a bona fide practitioner-patient relationship consistent with criteria set forth in § 54.1-3303 of the Code of Virginia. A licensee shall not prescribe a controlled substance to himself or a family member, other than Schedule VI as defined in § 54.1-3455 of the Code of Virginia. When treating or prescribing for self or family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.*

**Section of 54.1-3303 (B) from the Code of Virginia****§ 54.1-3303. (Effective until July 1, 2020) Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**

*B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship.*

*A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department and is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, the examination required by clause (iii) shall not be required.*

*A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.*

*For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § [38.2-3418.16](#), a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § [38.2-3418.16](#); and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § [32.1-127.1:03](#) and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.*

*For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § [3.2-6500](#), other than an equine as defined in § [3.2-6200](#), a group of agricultural*

*animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.*