**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3988**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Davis, M.M. Smith, B.J. Cox, Pedalino, Forrest, Wheeler, Kirby and Guffey

Companion/Similar bill(s): 505

Document Path: LC-0231WAB23.docx

Introduced in the House on February 16, 2023

Introduced in the Senate on March 26, 2024

Last Amended on May 7, 2024

Currently residing in conference committee

Summary: Pharmacists and pharmacy technicians

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/16/2023 House Introduced and read first time ([House Journal‑page 16](h:\hj\20230216.docx))

2/16/2023 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 16](h:\hj\20230216.docx))

3/15/2023 House Member(s) request name added as sponsor: Forrest

2/13/2024 House Member(s) request name removed as sponsor: Herbkersman

2/28/2024 House Committee report: Favorable with amendment **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 14](h:\hj\20240228.docx))

2/29/2024 House Member(s) request name added as sponsor: Wheeler

3/1/2024 Scrivener's error corrected

3/6/2024 House Debate adjourned ([House Journal‑page 59](h:\hj\20240306.docx))

3/7/2024 House Requests for debate-Rep(s). Harris ([House Journal‑page 30](h:\hj\20240307.docx))

3/7/2024 House Debate adjourned ([House Journal‑page 30](h:\hj\20240307.docx))

3/7/2024 House Member(s) request name added as sponsor: Kirby

3/15/2024 Scrivener's error corrected

3/19/2024 House Member(s) request name added as sponsor: Guffey

3/19/2024 House Amended ([House Journal‑page 14](h:\hj\20240319.docx))

3/20/2024 House Amended ([House Journal‑page 59](h:\hj\20240320.docx))

3/20/2024 House Read second time ([House Journal‑page 59](h:\hj\20240320.docx))

3/20/2024 House Roll call Yeas-104 Nays-2 ([House Journal‑page 62](h:\hj\20240320.docx))

3/21/2024 House Read third time and sent to Senate ([House Journal‑page 28](h:\hj\20240321.docx))

3/21/2024 Scrivener's error corrected

3/26/2024 Senate Introduced and read first time ([Senate Journal‑page 5](h:\sj\20240326.docx))

3/26/2024 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 5](h:\sj\20240326.docx))

4/23/2024 Senate Committee report: Favorable with amendment **Medical Affairs** ([Senate Journal‑page 8](h:\sj\20240423.docx))

4/30/2024 Senate Committee Amendment Adopted ([Senate Journal‑page 14](h:\sj\20240430.docx))

5/1/2024 Scrivener's error corrected

5/7/2024 Senate Read second time ([Senate Journal‑page 74](h:\sj\20240507.docx))

5/7/2024 Senate Amended ([Senate Journal‑page 74](h:\sj\20240507.docx))

5/8/2024 Senate Read third time and returned to House with amendments ([Senate Journal‑page 72](h:\sj\20240508.docx))

5/8/2024 Senate Roll call Ayes-45 Nays-0 ([Senate Journal‑page 72](h:\sj\20240508.docx))

5/9/2024 House Non-concurrence in Senate amendment ([House Journal‑page 77](h:\hj\20240509.docx))

5/9/2024 House Roll call Yeas-0 Nays-104 ([House Journal‑page 78](h:\hj\20240509.docx))

5/9/2024 Senate Senate insists upon amendment and conference committee appointed Martin, Hutto, Cromer ([Senate Journal‑page 45](h:\sj\20240509.docx))

5/9/2024 House Conference committee appointed Davis, MM Smith, W Jones ([House Journal‑page 151](h:\hj\20240509.docx))

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**VERSIONS OF THIS BILL**

[02/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20230216.docx)

[02/28/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240228.docx)

[03/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240301.docx)

[03/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240315.docx)

[03/19/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240319.docx)

[03/20/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240320.docx)

[03/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240321.docx)

[04/23/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240423.docx)

[04/30/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240430.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240501.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3988_20240508.docx)

Indicates Matter Stricken

Indicates New Matter

As Passed By The Senate

May 08, 2024

H. 3988

Introduced by Reps. Davis, M. M. Smith, B. J. Cox, Pedalino, Forrest, Wheeler, Kirby and Guffey

S. Printed 05/08/24--S.

Read the first time March 26, 2024

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40‑43‑30, RELATING TO DEFINITIONS IN THE PHARMACY PRACTICE ACT, SO AS TO PROVIDE ADDITIONAL ACTS THAT CONSTITUTE THE PRACTICE OF PHARMACY, TO PERMIT THE DELEGATION OF CERTAIN ACTS TO TRAINED PHARMACY TECHNICIANS AND PHARMACY INTERNS, AND TO DEFINE AN ADDITIONAL TERM; BY AMENDING SECTION 40‑43‑84, RELATING TO PHARMACY INTERNS AND EXTERNS, SO AS TO REMOVE CERTAIN DIRECT SUPERVISION REQUIREMENTS; BY AMENDING SECTION 40‑43‑190, RELATING TO PROTOCOL FOR PHARMACISTS TO ADMINISTER VACCINES WITHOUT practitioner orders, SO AS TO INCLUDE THE DISPENSATION OF CERTAIN DRUGS AND DEVICES, TO LOWER THE VACCINATION RECIPIENT AGE TO TWELVE YEARS OF AGE, TO AUTHORIZE DIRECTLY SUPERVISED PHARMACY INTERNS TO ADMINISTER CERTAIN VACCINATIONS, AND TO PROVIDE WRITTEN PROTOCOL REQUIREMENTS, AMONG OTHER THINGS; BY AMENDING SECTION 40‑43‑200, RELATING TO the JOINT PHARMACIST-ADMINISTERED VACCINES COMMITTEE, so as to rename the committee as THE “JOINT PHARMACIST ACCESS COMMITTEE” AND MAKE OTHER CONFORMING CHANGES; AND TO PROVIDE THE PHARMACIST ACCESS COMMITTEE MUST SUBMIT ITS INITIAL RECOMMENDATIONS TO THE BOARD of pharmacy NO LATER THAN FOUR MONTHS AFTER THE PASSAGE OF THIS ACT, AND PERIODICALLY THEREAFTER AS DETERMINED BY THE COMMITTEE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑43‑30(73) of the S.C. Code is amended to read:

(73) “Practice of pharmacy” means the:

(a) interpretation, evaluation, and dispensing of prescription drug orders in the patient's best interest;

(b) participation in drug and device selection, drug administration, prospective drug reviews, and drug or drug‑related research;

(c) provision of patient counseling and the provision of those acts or services necessary to provide pharmacy care and drug therapy management; and

(d) responsibility for compounding and labeling of drugs and devices, (except labeling by a manufacturer, repackager, or distributor or nonprescription drugs and commercially packaged legend drugs and devices) proper and safe storage of drugs and devices and maintenance of proper records for them; or

(e) initiation, ordering, and administration of flu and COVID tests. Pharmacists may delegate the task of administering tests provided for in this subsection to a trained pharmacy technician or pharmacy intern, but the pharmacist must perform any interpretation of the results;

(f) reporting of a person’s flu or COVID test results and the referral of that patient for follow-up care to the health care provider identified by the patient or if none is identified, to an appropriate health care provider; or

(g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, education, management, and control of pharmacy.

SECTION 2. Section 40‑43‑30 of the S.C. Code is amended by adding:

(93) “Direct supervision” means a pharmacist is readily and immediately available to the person who they are supervising during all professional activities.

SECTION 3. Section 40-43-40(A) and (B) of the S.C. Code is amended to read:

Section 40-43-40. (A) There is created the State Board of Pharmacy to be composed of nineten members, appointed by the Governor with advice and consent of the Senate, one of whom must be a lay member from the State at large, one of whom must be a state-certified pharmacy technician from the State at large, one of whom must be a pharmacist from the State at large, and seven of whom must be pharmacists representing each of the seven congressional districts. However, if no hospital pharmacist is selected to represent any of the seven congressional districts, the Governor shall appoint a hospital pharmacist as the pharmacist at large.

(B) The pharmacist at large, the state-certified pharmacy technician, and the lay member shall serve coterminously with the appointing Governor and until their successors are appointed and qualify. The certified pharmacy technician must be actively engaged as a certified pharmacy technician. The board shall conduct an election to nominate three pharmacists from each congressional district to be submitted to the Governor for consideration for appointment. The Governor shall appoint one pharmacist to represent each congressional district from among the nominees submitted for that district. The election shall provide for participation by all pharmacists currently licensed and residing in the congressional district for which the nomination is being made. The pharmacists must be residents of the congressional district they represent, licensed, in good standing to practice pharmacy in this State, and actively engaged in the practice of pharmacy in this State. The members of the board representing the seven congressional districts shall serve terms of six years and until their successors are appointed and qualify. No member may serve more than two successive terms of office except that a member serving an unexpired term may be reelected and reappointed for two successive terms.

SECTION 4. Section 40‑43‑84(C) of the S.C. Code is amended to read:

(C) An intern/extern may engage in the practice of pharmacy if such activities are under the direct supervision of a licensed pharmacist. A pharmacist must be in continuous personal eye and voice contact with, and actually giving instructions to, the intern/extern during all professional activities throughout the entire period of the internship/externship. The pharmacist shall physically review the prescription drug order and the dispensed product before the product is delivered to the patient or the patient's agent. The pharmacist is responsible for the work of the intern/extern. A pharmacist may not supervise more than one intern at any one time.

Pharmacy interns/externs shall not be left in sole charge of a prescription department or other approved site at any time. Violation of this may result in cancellation of any and all internship/externship hours toward licensure that may have been accrued by the intern/extern, and may, in the discretion of the board, cause the board after sufficient notice to the pharmacy intern/extern, to revoke or suspend the internship certificate as provided above. The supervising pharmacist or designated pharmacist may also be subject to disciplinary action by the board.

An applicant for licensure, who is guilty of compounding or dispensing a prescription of a practitioner or selling legend drugs or medicines while not under the supervision of a licensed pharmacist may be refused licensure.

SECTION 5. Section 40‑43‑190 of the S.C. Code is amended to read:

Section 40‑43‑190. (A)(1) Upon recommendation of the Joint Pharmacist Administered Vaccines Committee, the Board of Medical Examiners shall determine whether a specific vaccine is appropriate for administration by a pharmacist without a written order or prescription of a practitioner pursuant to this section. If a vaccine is approved, the Board of Medical Examiners shall issue a written protocol for the administration of vaccines by pharmacists without an order or prescription of a practitioner.

(2) The administration of vaccines as authorized in this section must not be to a person under the age of eighteensixteen years; provided, however, that:

(a) the influenza vaccine may be administered to a person twelve years of age or older pursuant to protocol issued by the Board of Medical Examiners;

(b) the influenza vaccine may be administered to a person under the age of twelve pursuant to protocol issued by the Board of Medical Examiners upon recommendation of the Joint Pharmacist Administered Vaccines Committee; and

(c) a pharmacist who has completed the training described in subsection (B)(1) may administer other vaccines approved by the Centers for Disease Control to a person of any age pursuant to a written order or prescription of a practitioner for a specific patient of that practitioner; and

(d) if the person receiving a vaccine is under the age of eighteen years, a pharmacist must inform the patient and their caregiver of the importance of mental health and routine well care visits with a pediatrician or other licensed primary care provider and refer patients as appropriate.

(e) a pharmacist shall only administer a vaccine to a person less than sixteen years of age if that person’s caretaker (with written parental consent), parent, or legal guardian is present at the time the vaccine is administered.

(3) The written protocol must further authorize pharmacists to administer without an order or prescription of a practitioner those medications necessary in the treatment of adverse events. These medications must be used only in the treatment of adverse events and must be limited to those delineated within the written protocol.

(4) The Board of Medical Examiners must issue the written protocol upon its approval of the vaccine for administration pursuant to this section.

(5) A pharmacist who has completed the training described in subsection (B)(1) may administer a vaccine approved by the Centers for Disease Control pursuant to written order or prescription of a practitioner for a specific patient of that practitioner.

(B) The written protocol must provide that:

(1) A pharmacist seeking authorization to administer a vaccine approved pursuant to this section shall successfully complete a course of training accredited by the Accreditation Council for Pharmacy Education or a similar health authority or professional body approved by the Board of Pharmacy and the Board of Medical Examiners. Training must comply with current Centers for Disease Control guidelines and must include study materials, hands‑on training, and techniques for administering vaccines and must provide instruction and experiential training in the following content areas:

(a) mechanisms of action for vaccines, contraindications, drug interactions, and monitoring after vaccine administration;

(b) standards for adult vaccination practices;

(c) basic immunology and vaccine protection;

(d) vaccine‑preventable diseases;

(e) recommended vaccination schedules;

(f) vaccine storage management;

(g) biohazard waste disposal and sterile techniques;

(h) informed consent;

(i) physiology and techniques for vaccine administration;

(j) prevaccine and postvaccine assessment and counseling;

(k) vaccination record management;

(l) management of adverse events, including identification, appropriate response, emergency procedures, documentation, and reporting;

(m) understanding of vaccine coverage by federal, state, and local entities;

(n) needle stick management.

(2) A pharmacist administering vaccinations without an order or prescription of a practitioner pursuant to this section shall:

(a) obtain the signed writteninformed consent of the person being vaccinated or that person's guardian;

(b) maintain a copy of the vaccine administration in that person's record and provide a copy to the person or the person's guardian;

(c) notify that person's designated physician or primary care provider of a vaccine administered;

(d) report administration of all vaccinations to the South Carolina Immunization Registry in compliance with regulations established by the Department of Health and Environmental Control as the department may require; provided, however, that the phase‑in schedule provided in Regulation 61‑120 for reporting vaccinations does not apply to vaccinations administered pursuant to this section;

(e) maintain a current copy of the written protocol at each location at which a vaccination is administered pursuant to this section.

(3) A pharmacist may not delegate the administration of vaccines to a pharmacy technician or certified pharmacy technician. For purposes of this section, "informed consent" means a written document that is signed and dated by an individual; or if the individual is a minor, by a parent or legal guardian; or if the individual is incapacitated or without sufficient mental capacity, by a designated health care agent pursuant to a health care power of attorney, that at a minimum includes:

(a) an explanation of the vaccine or treatment that is written in language that is understandable to the average lay person;

(b) a description of the potential risks and benefits resulting from vaccine or treatment, along with a realistic description of the most likely outcome;

(c) a statement acknowledging risks associated with the vaccine or treatment if the vaccine or treatment is an indemnified product as defined in Section 44-1-55(A)(7);

(d) language that clearly indicates that the individual agrees to the administration of the vaccine or treatment, that the individual has had time to thoughtfully and voluntarily accept or decline the vaccine or treatment free from coercion: and

(e) if the vaccine or treatment is an investigational medical product or is made available through an Emergency Use Authorization by the Federal Food and Drug Administration, a statement acknowledging its investigational nature and the civil liability protections afforded it by law.

(4) A pharmacy intern or pharmacy technician may administer vaccinations under the direct supervision, as defined in Section 40‑43‑84(C), of a pharmacist who has completed vaccination training as required by item (1) if the pharmacy intern or pharmacy technician:

(a) is certified through a basic life support or CPR provider‑level course that is jointly approved by the Board of Medical Examiners and the Board of Pharmacy;Joint Pharmacy Access Committee and completes a practical training program that is approved by the Accreditation Council for Pharmacy Education (ACPE) which includes, at a minimum, hands-on injection technique and the recognition and treatment of emergency reactions to vaccines; and

(b) completes this course of training described in item (1).if a pharmacy technician, the pharmacy technician must be:

(i) state‑certified; or

(ii) nonstate‑certified but administered vaccinations and received training pursuant to the federal Public Readiness and Emergency Preparedness (PREP) Act prior to the effective date of this section and registers with the Board of Pharmacy as an authorized vaccination provider.

(5) A pharmacist or pharmacy technician administering vaccinations shall, as part of the current continuing education requirements pursuant to Section 40‑43‑130, complete no less than one hour of continuing education each license year regarding administration of vaccinations.

(C) Informed consent must be documented in accordance with the written protocol for vaccine administration issued pursuant to this section.

(D) All records required by this section must be maintained in the pharmacy for a period of at least ten years from the date of the last vaccination or dispensing for adults and at least thirteen years from the date of the last vaccination or dispensing for minors.

(E) All documentation, records, and copies required by this section may be stored electronically.

SECTION 6. Section 40‑43‑200 of the S.C. Code is amended to read:

Section 40‑43‑200. (A) There is created a Joint Pharmacist Administered Vaccines Committee as a committee to the Board of Medical Examiners which consists of seven members with experience regarding vaccines. The committee is comprised of two physicians selected by the Board of Medical Examiners, two pharmacists selected by the Board of Pharmacy, and two advanced practice nurse practitioners selected by the Board of Nursing. One member of the Department of Health and Environmental Control designated by the director of the department also shall serve on the committee. Members of the committee may not be compensated for their service on the board and may not receive mileage, per diem, and subsistence as otherwise authorized by law for members of state boards, committees, and commissions.

(B) The committee shall meet at least once annually and at other times as may be necessary. Five members constitute a quorum for all meetings. At its initial meeting, and at the beginning of each year thereafter, the committee shall elect from its membership a chairperson to serve for a one year term.

(C) The committee shall assist and advise the Board of Medical Examiners in determining whether a specific vaccine is appropriate for administration by a pharmacist without a written order or prescription of a practitioner pursuant to Section 40‑43‑190. For a specific vaccine recommended by the committee to the Board of Medical Examiners, the committee also must submit a proposed written protocol for the purpose of authorizing pharmacists to administer the vaccineas authorized by Section 40‑43‑190. The committee must submit its initial recommendations to the board no later than four months after the passage of this act, and periodically thereafter as determined by the committee.

SECTION 7. The Joint Pharmacist Administered Vaccines Committee must submit its initial recommendations to the board no later than four months after the passage of this act, and periodically thereafter as determined by the committee.

SECTION 8. This act takes effect upon approval by the Governor.

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