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Delegate _____
Room, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Delegate _____:

I am writing concerning **SB-8**, including pharmacists and pharmacies in the Medical Professional Liability Act (MPLA). This is an important issue to me because I am a pharmacy student and would like to practice in West Virginia, but without liability protection I may chose to practice elsewhere. Please note that this bill is currently only in the Senate but is expected to quickly proceed to the House of Delegates for review and vote.

Changes to Code §55-7B-2, part (g) as suggested in the bill are as follows, “‘Health care provider’ means a person, partnership, corporation...licensed by, or certified in, this state or another state to provide health care or professional health care services, including but not limited to, a physician, osteopathic physician, hospital, dentist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, emergency medical services authority or agent, **pharmacist, pharmacy** or an officer, employee or agent thereof...”

Until 2007 it was assumed that pharmacists and pharmacies WERE defined as health care providers according to the “including, but not limited to” part of the law. However, in the case August Eugene Phillips and Cheryl Phillips v. Larry’s Drive-in Pharmacy (No. 33194), the Supreme Court ruled that MPLA was not designed to cover pharmacists and pharmacies as health care providers, after the Circuit Court of Boone County ruled that pharmacists were covered by MPLA. As a future pharmacist, this concerns me: this case opens the doors for more law suits against pharmacists where there is no limit for suits for noneconomic damage. It seems like pharmacists should be covered according to the “including but not limited to” wording of the Code. However, the Supreme Court ruled that MPLA was in derogation of common law and that “health care provider” should, therefore, be defined by the narrowest definition: excluding pharmacists.

As a student pharmacist hoping to practice in West Virginia in the future, I feel that this MPLA protection is important and must be implicitly stated. The profession of pharmacy has changed greatly in the last twenty-four years. To begin with, **pharmacy programs are now required to be doctorate programs** (Doctor of Pharmacy or Pharm.D) rather than the former baccalaureate programs. This allows for more comprehensive and extensive training in a variety of areas. Also the last year of the pharmacy program is a series of nine five-week **rotations in a variety of practice settings, similar to that of a medical resident**. Among other sites, these rotations are in hospital and community settings, clinical settings, ambulatory care, and teaching institutions.

With the doctorate program came an expansion in the duties of a pharmacist. Pharmacists now participate in diabetes management programs, like PEIA Face-to-Face, and medication therapy management in the community setting. These programs include taking the patient's **blood pressure, pulse, and performing minor examinations**, such as diabetic foot exams, pulse, weight, and blood glucose. Also, pharmacists can now provide adult immunizations in the state of West Virginia. Trained, certified immunizing pharmacists administered over 30,000 adult vaccinations for seasonal influenza, H1N1, and pneumococcal disease as of December 4, 2009.

Furthermore, with post-graduate training, pharmacists can become certified clinical specialist. These pharmacists generally work in **hospitals or community clinic settings**, usually **rounding as part of the patient care team**, and make suggestions about medication therapy, perform dosing calculations, and monitor drug therapies. Hospital pharmacists also respond to cardiac arrests (also known as "code blue" or a "code") with the rest of the medical care team, and can direct the code when an attending physician is absent at the scene.

With these changes in pharmacy and new roles and expectations of pharmacists, it is even more important that pharmacists and pharmacies be covered under MPLA. Pharmacy has changed so much in twenty-four years, and will continue to expand the areas of practice; however this expansion may be impeded by the exclusion of pharmacists and pharmacies from MPLA protection.

Science, technology, and medicine have improved and expanded greatly in the past twenty-four years, pharmacy included. I would greatly appreciate it if you would show your interest in SB-8 and the inclusion of pharmacists and pharmacies to the Chair of the House Judiciary Committee, Delegate Miley.

Please feel free to contact me by phone or e-mail with any questions you have concerning pharmacy and this bill. Thank you for your interest.

Sincerely,

Kristin Showen
First-Year Pharmacy Student