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SENATE BILL NO. 145

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 9, 2002)

(Patron Prior to Substitute—Senator Norment)

*A BILL to amend and reenact § 54.1-3301 of the Code of Virginia, relating to practice of pharmacy.***Be it enacted by the General Assembly of Virginia:****1. That § 54.1-3301 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-3301. Exceptions.

This chapter shall not be construed to:

1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any physician acting on behalf of the Virginia Department of Health or local health departments, in the compounding of his prescriptions or the purchase and possession of drugs as he may require;

2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any physician acting on behalf of the Virginia Department of Health or local health departments, from administering or supplying to his patients the medicines that he deems proper under the conditions of § 54.1-3303;

3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34 (§ 54.1-3400 et seq.) of this title;

4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34 (§ 54.1-3400 et seq.) of this title;

5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the regulations of the Board;

6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from purchasing, possessing or administering controlled substances to his own patients or providing controlled substances to his own patients in a bona fide medical emergency or providing manufacturers' professional samples to his own patients;

7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic pharmaceutical agents, from purchasing, possessing or administering those controlled substances as specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own patients those controlled substances as specified in § 54.1-3222 and the TPA formulary or providing manufacturers' samples of these drugs to his own patients;

8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice setting and a written agreement with a physician or podiatrist; or

9. Interfere with any licensed nurse practitioner with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to prescribe according to his practice setting and a written agreement with a physician.

10. *Interfere with any legally qualified practitioner of medicine or osteopathy participating in an indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in the program shall not use the donated drug for any purpose other than dispensing to the patient for whom it was originally donated, except as authorized by the donating manufacturer for another patient meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent patient program pursuant to this subdivision. A participating pharmacy may charge a reasonable dispensing or administrative fee to offset the cost of dispensing, not to exceed the comparable allowable fee reimbursed by the Virginia Medicaid program. However, if the patient is unable to pay such fee, the dispensing or administrative fee shall be waived.*

11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing

60 *controlled substances to his own patients in a free clinic without charge when such controlled*
61 *substances are donated by an entity other than a pharmaceutical manufacturer as authorized by*
62 *subdivision 10. The practitioner shall first obtain a controlled substances registration from the Board*
63 *and shall comply with the labeling and packaging requirements of this chapter and the Board's*
64 *regulations.*

65 This section shall not be construed as exempting any person from the licensure, registration,
66 permitting and record keeping requirements of this chapter or Chapter 34 of this title.

67 **2. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this**
68 **act to be effective within 280 days of its enactment.**

69 **3. That, in addition, the Board of Pharmacy shall advise and assist any clinic providing health**
70 **care services without charge, as defined in § 54.1-106, to indigent persons in this Commonwealth**
71 **in resolving, consistent with state and federal law and regulations, any issues relating to the**
72 **practice of pharmacy and the Drug Control Act (§ 54.1-3400 et seq.).**