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HOUSE BILL NO. 870

Offered January 14, 2004

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A BILL to amend and reenact §§ 54.1-2901 and 54.1-3408 of the Code of Virginia, relating to authorization of respiratory care practitioners to administer controlled substances within scope of practice.

 Patron—Byron

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-2901 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2901. Exceptions and exemptions generally.

The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing;

4. Any registered professional nurse, licensed nurse practitioner, *respiratory care practitioner*, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministrations to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary license or certification by the Board from

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59 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
60 camp or in conjunction with patients who are participating in recreational activities, (ii) while
61 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
62 site any health care services within the limits of his license, voluntarily and without compensation, to
63 any patient of any clinic which is organized in whole or in part for the delivery of health care services
64 without charge as provided in § 54.1-106;

65 17. The performance of the duties of any commissioned or contract medical officer, or podiatrist in
66 active service in the army, navy, coast guard, marine corps, air force, or public health service of the
67 United States while such individual is so commissioned or serving;

68 18. Any masseur, who publicly represents himself as such, from performing services within the scope
69 of his usual professional activities and in conformance with state law;

70 19. Any person from performing services in the lawful conduct of his particular profession or
71 business under state law;

72 20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

73 21. Qualified emergency medical services personnel, when acting within the scope of their
74 certification, and licensed health care practitioners, when acting within their scope of practice, from
75 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of
76 Health regulations, or licensed health care practitioners from following any other written order of a
77 physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

78 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
79 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
80 § 54.1-106;

81 23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture
82 detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent
83 certifying body, from administering auricular acupuncture treatment under the appropriate supervision of
84 a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

85 24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation
86 (CPR) acting in compliance with the patient's individualized service plan and with the written order of
87 the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

88 25. Any person working as a health assistant under the direction of a licensed medical or osteopathic
89 doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional
90 facilities;

91 26. Any employee of a school board, authorized by a prescriber and trained in the administration of
92 insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents
93 as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a
94 student diagnosed as having diabetes and who requires insulin injections during the school day or for
95 whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

96 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
97 free health care to an underserved population of Virginia who (i) does not regularly practice his
98 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another
99 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to
100 an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer,
101 nonprofit organization with no paid employees that sponsors the provision of health care to populations
102 of underserved people throughout the world, (iv) files a copy of the license or certification issued in
103 such other jurisdiction with the Board, (v) notifies the Board at least 15 days prior to the voluntary
104 provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that
105 such licensure exemption shall only be valid, in compliance with the Board's regulations, during the
106 limited period that such free health care is made available through the volunteer, nonprofit organization
107 on the dates and at the location filed with the Board. The Board may deny the right to practice in
108 Virginia to any practitioner of the healing arts whose license or certificate has been previously
109 suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation
110 of applicable laws or regulations;

111 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens
112 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as
113 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division
114 of Consolidated Laboratories or other public health laboratories, designated by the State Health
115 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in
116 § 32.1-49.1; or

117 29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered
118 nurse under his supervision the screening and testing of children for elevated blood-lead levels when
119 such testing is conducted (i) in accordance with a written protocol between the physician or nurse
120 practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations

promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause them to be administered by a nurse, physician assistant or intern under his direction and supervision, or he may prescribe and cause drugs and devices to be administered to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the State Mental Health, Mental Retardation and Substance Abuse Services Board by other persons who have been trained properly to administer drugs and who administer drugs only under the control and supervision of the prescriber or a pharmacist or a prescriber may cause drugs and devices to be administered to patients by emergency medical services personnel who have been certified and authorized to administer such drugs and devices pursuant to Board of Health regulations governing emergency medical services and who are acting within the scope of such certification. A prescriber may authorize a certified respiratory therapy practitioner as defined in § 54.1-2954 to administer by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

G. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician or physician assistant is not present to perform the administration of the medication.

H. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the

182 administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is
183 not physically present, (i) by licensed pharmacists, (ii) by registered nurses, or (iii) licensed practical
184 nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of
185 and in accordance with established protocols of the Department of Health may authorize the
186 administration of vaccines to any person by a pharmacist or nurse when the prescriber is not physically
187 present.

188 *I. Pursuant to an oral or written order or standing protocol issued by a prescriber within the scope*
189 *and course of the prescriber's professional practice, such prescriber may authorize a respiratory care*
190 *practitioner, as defined in § 54.1-2954, to administer controlled substances and devices that are within*
191 *the respiratory care practitioner's scope of practice.*

192 *J. A dentist may cause Schedule VI topical drugs to be administered under his direction and*
193 *supervision by either a dental hygienist or by an authorized agent of the dentist.*

194 Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist
195 in the course of his professional practice, a dentist may authorize a dental hygienist under his general
196 supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral
197 anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions,
198 as well as any other Schedule VI topical drug approved by the Board of Dentistry.

199 *JK. This section shall not prevent the administration of drugs by a person who has satisfactorily*
200 *completed a training program for this purpose approved by the Board of Nursing and who administers*
201 *such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of*
202 *administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to*
203 *security and record keeping, when the drugs administered would be normally self-administered by (i) a*
204 *resident of a facility licensed or certified by the State Mental Health, Mental Retardation and Substance*
205 *Abuse Services Board; (ii) a resident of any assisted living facility which is licensed by the Department*
206 *of Social Services; (iii) a resident of the Virginia Rehabilitation Center for the Blind and Vision*
207 *Impaired; (iv) a resident of a facility approved by the Board or Department of Juvenile Justice for the*
208 *placement of children in need of services or delinquent or alleged delinquent youth; (v) a program*
209 *participant of an adult day-care center licensed by the Department of Social Services; or (vi) a resident*
210 *of any facility authorized or operated by a state or local government whose primary purpose is not to*
211 *provide health care services.*

212 *KL. In addition, this section shall not prevent the administration of drugs by a person who*
213 *administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and*
214 *manner of administration and with written authorization of a parent, and in accordance with school*
215 *board regulations relating to training, security and record keeping, when the drugs administered would*
216 *be normally self-administered by a student of a Virginia public school. Training for such persons shall*
217 *be accomplished through a program approved by the local school boards, in consultation with the local*
218 *departments of health.*

219 *LM. In addition, this section shall not prevent the administration or dispensing of drugs and devices*
220 *by persons if they are authorized by the State Health Commissioner in accordance with protocols*
221 *established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has*
222 *declared a disaster or a state of emergency caused by an act of terrorism or the United States Secretary*
223 *of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or*
224 *other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed*
225 *drugs or devices; and (iii) such persons have received the training necessary to safely administer or*
226 *dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices*
227 *under the direction, control and supervision of the State Health Commissioner.*

228 *MN. Nothing in this title shall prohibit the administration of normally self-administered oral or*
229 *topical drugs by unlicensed individuals to a person in his private residence.*

230 *NO. This section shall not interfere with any prescriber issuing prescriptions in compliance with his*
231 *authority and scope of practice and the provisions of this section to a Board agent for use pursuant to*
232 *subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid*
233 *prescriptions.*

234 *OP. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient*
235 *care technicians who are certified by an organization approved by the Board of Health Professions*
236 *pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this title, in the ordinary course of their duties in a*
237 *Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics,*
238 *dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating*
239 *renal dialysis treatment, when such administration of medications occurs under the orders of a licensed*
240 *physician, nurse practitioner or physician assistant and under the immediate and direct supervision of a*
241 *licensed registered nurse.*

242 The dialysis care technician or dialysis patient care technician administering the medications shall
243 have demonstrated competency as evidenced by holding current valid certification from an organization

244 approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this
245 title.

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