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**HOUSE BILL NO. 1147**

Offered January 11, 2006

Prefiled January 11, 2006

*A BILL to amend and reenact §§ 54.1-3005 and 54.1-3408 of the Code of Virginia, relating to the administration of prescription medications in a child day program.*

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Patron—Orrock

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Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3005 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To approve programs that entitle professional nurses to be registered as clinical nurse specialists and to prescribe minimum standards for such programs;

10. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

11. To certify and maintain a registry of all certified massage therapists and to promulgate regulations governing the criteria for certification as a massage therapist and the standards of professional conduct for certified massage therapists;

12. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

13. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

15. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

16. To expedite application processing, to the extent possible, for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

17. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides; ~~and~~

18. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation; ~~and~~

19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees

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59 of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services or  
60 the Child Day Care Council in the administration of prescription drugs as defined in the Drug Control  
61 Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed  
62 practical nurse, doctor of medicine or osteopathic medicine, or pharmacist.

63 § 54.1-3408. Professional use by practitioners.

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

69 B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral  
70 prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may  
71 cause them to be administered by a nurse, physician assistant or intern under his direction and  
72 supervision, or he may prescribe and cause drugs and devices to be administered to patients in  
73 state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or  
74 psychiatric hospitals licensed by the State Mental Health, Mental Retardation and Substance Abuse  
75 Services Board by other persons who have been trained properly to administer drugs and who administer  
76 drugs only under the control and supervision of the prescriber or a pharmacist or a prescriber may cause  
77 drugs and devices to be administered to patients by emergency medical services personnel who have  
78 been certified and authorized to administer such drugs and devices pursuant to Board of Health  
79 regulations governing emergency medical services and who are acting within the scope of such  
80 certification. A prescriber may authorize a licensed respiratory care practitioner as defined in  
81 § 54.1-2954 to administer by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

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

95 F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course  
96 of his professional practice, such prescriber may authorize licensed athletic trainers to possess and  
97 administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs, or to possess and  
98 administer epinephrine for use in emergency cases of anaphylactic shock.

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

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

117 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his  
118 professional practice, such prescriber may authorize, with the consent of the parents as defined in  
119 § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to  
120 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.

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

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

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

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

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

L. (For effective date - see Editor's note) Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

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

N. In addition, this section shall not prevent the administration of drugs by a person to a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or the Child Day Care Council, provided such person (i) has satisfactorily completed a training program for

182 *this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical*  
183 *nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization*  
184 *from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label*  
185 *in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of*  
186 *administration; and (iv) administers only those drugs that were dispensed from a pharmacy and*  
187 *maintained in the original, labeled container that would normally be administered by a parent or*  
188 *guardian to the child.*

189 **NO.** In addition, this section shall not prevent the administration or dispensing of drugs and devices  
190 by persons if they are authorized by the State Health Commissioner in accordance with protocols  
191 established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has  
192 declared a disaster or a state of emergency caused by an act of terrorism or the United States Secretary  
193 of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or  
194 other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed  
195 drugs or devices; and (iii) such persons have received the training necessary to safely administer or  
196 dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices  
197 under the direction, control and supervision of the State Health Commissioner.

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

200 **PQ.** This section shall not interfere with any prescriber issuing prescriptions in compliance with his  
201 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to  
202 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid  
203 prescriptions.

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

212 The dialysis care technician or dialysis patient care technician administering the medications shall  
213 have demonstrated competency as evidenced by holding current valid certification from an organization  
214 approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this  
215 title.