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**HOUSE BILL NO. 851**

Offered January 11, 2006

Prefiled January 10, 2006

*A BILL to amend and reenact §§ 54.1-3303 and 54.1-3408 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-126.4, relating to standing orders or protocols in hospitals for certain vaccinations.*

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 Patron—O'Bannon
 

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Referred to Committee on Health, Welfare and Institutions

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

**1. That §§ 54.1-3303 and 54.1-3408 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding a section numbered 32.1-126.4 as follows:**

*§ 32.1-126.4. Hospital standing orders or protocols for certain vaccinations.*

*A. A hospital may provide or arrange for the administration under a standing order or protocol approved by a member or committee of the hospital's medical staff of (i) influenza vaccinations and (ii) pneumococcal vaccinations, thus waiving the requirement for specific written physician orders for influenza and pneumococcal immunizations. However, no such standing order or protocol shall supersede a physician's authority to issue specific written orders relating to immunizations.*

*B. Any standing order or protocol authorized by this section shall require that the vaccinations be administered in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention after (i) ascertaining that the vaccination is not medically contraindicated for the patient, (ii) determining the patient's wishes and any religious objections, and (iii) obtaining informed consent from the patient or his legal representative.*

*C. Vaccinations administered under a standing order or protocol shall be documented in the patient's health record.*

*§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.*

*A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by 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. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.*

*For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.*

*B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.*

*No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid*

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59 prescription.

60 C. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state  
61 practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine authorized to issue such  
62 prescription if the prescription complies with the requirements of this chapter and Chapter 34  
63 (§ 54.1-3400 et seq.) of this title, known as the "Drug Control Act."

64 D. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to  
65 § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled  
66 substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal  
67 or therapeutic purpose within the scope of his professional practice.

68 E. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to  
69 § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled  
70 substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal  
71 or therapeutic purpose within the scope of his professional practice.

72 F. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to  
73 Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title may issue prescriptions in good faith or  
74 provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within  
75 the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant  
76 to § 54.1-3223, which shall be limited to (i) oral analgesics included in Schedules III through VI, as  
77 defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are  
78 appropriate to relieve ocular pain, (ii) other oral Schedule VI controlled substances, as defined in  
79 § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human  
80 eye and its adnexa, (iii) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug  
81 Control Act, and (iv) intramuscular administration of epinephrine for treatment of emergency cases of  
82 anaphylactic shock.

83 *G. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied*  
84 *by a member or committee of a hospital's medical staff when approving a standing order or protocol for*  
85 *the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance*  
86 *with § 32.1-126.4.*

87 § 54.1-3408. Professional use by practitioners.

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

93 B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral  
94 prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may  
95 cause them to be administered by a nurse, physician assistant or intern under his direction and  
96 supervision, or he may prescribe and cause drugs and devices to be administered to patients in  
97 state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or  
98 psychiatric hospitals licensed by the State Mental Health, Mental Retardation and Substance Abuse  
99 Services Board by other persons who have been trained properly to administer drugs and who administer  
100 drugs only under the control and supervision of the prescriber or a pharmacist or a prescriber may cause  
101 drugs and devices to be administered to patients by emergency medical services personnel who have  
102 been certified and authorized to administer such drugs and devices pursuant to Board of Health  
103 regulations governing emergency medical services and who are acting within the scope of such  
104 certification. A prescriber may authorize a licensed respiratory care practitioner as defined in  
105 § 54.1-2954 to administer by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

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

119 F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course  
120 of his professional practice, such prescriber may authorize licensed athletic trainers to possess and

administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs, or to possess and administer epinephrine for use in emergency cases of anaphylactic shock.

G. 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.

H. 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.

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

182 Mental Health, Mental Retardation and Substance Abuse Services; (ii) a resident of the Virginia  
183 Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the  
184 Board or Department of Juvenile Justice for the placement of children in need of services or delinquent  
185 or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the  
186 Department of Social Services; or (v) a resident of any facility authorized or operated by a state or local  
187 government whose primary purpose is not to provide health care services.

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

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

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

212 O. Nothing in this title shall prohibit the administration of normally self-administered oral or topical  
213 drugs by unlicensed individuals to a person in his private residence.

214 P. This section shall not interfere with any prescriber issuing prescriptions in compliance with his  
215 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to  
216 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid  
217 prescriptions.

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

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

230 R. *Persons who are otherwise authorized to administer controlled substances in hospitals shall be*  
231 *authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.*