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HOUSE BILL NO. 1445

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 24, 2008)

(Patrons Prior to Substitute—Delegates Abbitt and Crockett-Stark [HB561])

A BILL to amend and reenact § 54.1-3408 of the Code of Virginia, relating to administration of drugs.

Be it enacted by the General Assembly of Virginia:

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

§ 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 licensed respiratory care 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, 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

60 Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein
61 derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and
62 policies established by the Department of Health.

63 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
64 professional practice, such prescriber may authorize, with the consent of the parents as defined in
65 § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to
66 assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes
67 and who requires insulin injections during the school day or for whom glucagon has been prescribed for
68 the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed
69 nurse, nurse practitioner, physician or physician assistant is not present to perform the administration of
70 the medication.

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

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

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

85 In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI
86 nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI
87 local anesthesia.

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

101 K. (Contingent effective date - see Editor's note) This section shall not prevent the administration of
102 drugs by a person who has satisfactorily completed a training program for this purpose approved by the
103 Board of Nursing and who administers such drugs in accordance with a physician's instructions
104 pertaining to dosage, frequency, and manner of administration, and in accordance with regulations
105 promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs
106 administered would be normally self-administered by (i) a resident of a facility licensed or certified by
107 the Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) a resident of
108 the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility
109 approved by the Board or Department of Juvenile Justice for the placement of children in need of
110 services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center
111 licensed by the Department of Social Services; ~~or~~ (v) a resident of any facility authorized or operated by
112 a state or local government whose primary purpose is not to provide health care services; (vi) *a resident*
113 *of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of*
114 *Social Services, Department of Education, or Department of Mental Health, Mental Retardation and*
115 *Substance Abuse Services; or (vii) a student in a school for students with disabilities, as defined in*
116 *§ 22.1-319 and licensed by the Board of Education.*

117 L. (Contingent effective date - see Editor's note) Medication aides registered by the Board of Nursing
118 pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be
119 self-administered to residents of any assisted living facility licensed by the Department of Social
120 Services. A registered medication aide shall administer drugs pursuant to this section in accordance with
121 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 this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (iv) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be administered by a parent or guardian to the child.

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

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

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

R. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this title, in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

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

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

T. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

U. A nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine or osteopathic medicine that conforms to standards adopted by the Virginia Department of Health.