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SENATE BILL NO. 271

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact §§ 54.1-2722, 54.1-3005 and 54.1-3408 of the Code of Virginia, relating to administration of prescription drugs to students in a school for students with disabilities.

 Patron—Deeds

 Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2722, 54.1-3005 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing, and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of an accredited dental hygiene program offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B of this section; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection IV of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

§ 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

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59 consistent with federal law and regulation. The Board shall require all schools to demonstrate their
60 compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in
61 response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to
62 § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of
63 licensed practical nurses to teach nurse aides;

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

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

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

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

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

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

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

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

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

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

92 19. To set guidelines for the collection of data by all approved nursing education programs and to
93 compile this data in an annual report. The data shall include but not be limited to enrollment, graduation
94 rate, attrition rate, and number of qualified applicants who are denied admission; ~~and~~

95 20. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees
96 of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services or
97 the Child Day Care Council in the administration of prescription drugs as defined in the Drug Control
98 Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical
99 nurse, doctor of medicine or osteopathic medicine, or pharmacist; *and*

100 21. *To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees*
101 *of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of*
102 *Education, in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400*
103 *et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor*
104 *of medicine or osteopathic medicine, or pharmacist.*

105 § 54.1-3408. Professional use by practitioners.

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

111 B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral
112 prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may
113 cause them to be administered by a nurse, physician assistant or intern under his direction and
114 supervision, or he may prescribe and cause drugs and devices to be administered to patients in
115 state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or
116 psychiatric hospitals licensed by the State Mental Health, Mental Retardation and Substance Abuse
117 Services Board by other persons who have been trained properly to administer drugs and who administer
118 drugs only under the control and supervision of the prescriber or a pharmacist or a prescriber may cause
119 drugs and devices to be administered to patients by emergency medical services personnel who have
120 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 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.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI

182 nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI
183 local anesthesia.

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

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

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

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

224 N. In addition, this section shall not prevent the administration of drugs by a person to a child in a
225 child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or the
226 Child Day Care Council, provided such person (i) has satisfactorily completed a training program for
227 this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical
228 nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization
229 from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in
230 accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of
231 administration; and (iv) administers only those drugs that were dispensed from a pharmacy and
232 maintained in the original, labeled container that would normally be administered by a parent or
233 guardian to the child.

234 O. *In addition, this section shall not prevent the administration of drugs by a person to a student in*
235 *a school for student with disabilities, as defined in § 22.1-319 and licensed by the Board of Education,*
236 *provided such person (i) has satisfactorily completed a training program for this purpose approved by*
237 *the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or*
238 *osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a parent or guardian;*
239 *(iii) administers drugs only to the student identified on the prescription label in accordance with the*
240 *prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (iv)*
241 *administers only those drugs that were dispensed from a pharmacy and maintained in the original,*
242 *labeled container that would normally be administered by a parent or guardian to the student.*

243 OP. 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.

PQ. 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.

QR. 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.

RS. 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.

ST. 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.

TU. 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.

UV. 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.