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SENATE BILL NO. 965

Senate Amendments in [] — January 22, 2009

A *BILL to amend and reenact §§ 54.1-2722 and 54.1-3408 of the Code of Virginia, relating to the administration of preventive medication for victims of rape.*

Patron Prior to Engrossment—Senator Blevins

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-2722 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 ~~UV~~ 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.

§ 54.1-3408. 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

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60 been certified and authorized to administer such drugs and devices pursuant to Board of Health
61 regulations governing emergency medical services and who are acting within the scope of such
62 certification. A prescriber may authorize a licensed respiratory care practitioner as defined in
63 § 54.1-2954 to administer by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

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

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

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

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

99 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
100 professional practice, such prescriber may authorize, with the consent of the parents as defined in
101 § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to
102 assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes
103 and who requires insulin injections during the school day or for whom glucagon has been prescribed for
104 the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed
105 nurse, nurse practitioner, physician or physician assistant is not present to perform the administration of
106 the medication.

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

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

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

121 In addition, a dentist may 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.

K. 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 professional nurses [trained as sexual assault nurse examiners certified as sexual assault nurse examiners - A (SANE-A)] under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. 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; (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; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Mental Health, Mental Retardation and Substance Abuse Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

LM. 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.

MV. 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.

NO. 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.

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

183 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid
184 prescriptions.

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

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

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

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

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