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HOUSE BILL NO. 173

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 26, 2010)

(Patrons Prior to Substitute—Delegates Pogge and Griffith [HB798])

A BILL to amend and reenact §§ 32.1-48.016 and 54.1-3408 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-42.2, relating to administration and dispensing of necessary drugs by emergency medical services personnel.

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-48.016 and 54.1-3408 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-42.2 as follows:

§ 32.1-42.2. Administration of influenza vaccine by emergency medical services personnel.

A. The Commissioner may, pursuant to subsection P of § 54.1-3408, authorize certified emergency medical services personnel to administer influenza vaccine to public safety personnel and, upon request of the local health director, the general public, when such emergency services personnel (i) are employed by or affiliated with a licensed emergency medical services agency; (ii) have received the training necessary to safely administer influenza vaccine, (iii) act in accordance with protocols established by the Commissioner pursuant to subsection B, and (iv) act under the direction, control, and supervision of the Commissioner and their operational medical director.

B. The Commissioner shall develop protocols, in consultation with the Governor's Emergency Medical Services Advisory Board, that address the required training of emergency medical services providers and procedures for emergency medical services providers to use in administering influenza vaccine pursuant to this section.

§ 32.1-48.016. Immunity from liability.

Any person, including a person who serves in a Medical Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT); or any certified emergency medical services provider who is employed by or affiliated with a licensed emergency medical services agency acting pursuant to a written agreement between his operational medical director and the Commissioner, who, in good faith and in the performance of his duties, acts in compliance with this article and the Board of Health's regulations shall not be liable for any civil damages for any act or omission resulting from such actions unless such act or omission was the result of gross negligence or willful misconduct.

§ 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 Department of Behavioral Health and Developmental Services 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

60 may possess and administer epinephrine in emergency cases of anaphylactic shock.

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

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

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

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

86 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
87 professional practice, such prescriber may authorize, with the consent of the parents as defined in
88 § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to
89 assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes
90 and who requires insulin injections during the school day or for whom glucagon has been prescribed for
91 the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed
92 nurse, nurse practitioner, physician or physician assistant is not present to perform the administration of
93 the medication.

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

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

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

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

111 K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the
112 course of his professional practice, such prescriber may authorize registered professional nurses certified
113 as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically
114 present to possess and administer preventive medications for victims of sexual assault as recommended
115 by the Centers for Disease Control and Prevention.

116 L. This section shall not prevent the administration of drugs by a person who has satisfactorily
117 completed a training program for this purpose approved by the Board of Nursing and who administers
118 such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of
119 administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to
120 security and record keeping, when the drugs administered would be normally self-administered by (i) an
121 individual receiving services in a program licensed by the Department of Behavioral Health and

Developmental 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 Behavioral Health and Developmental 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.

M. 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.

N. 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.

O. 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.

P. 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.

Q. 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.

R. 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.

S. 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

183 have demonstrated competency as evidenced by holding current valid certification from an organization
184 approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this
185 title.

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

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

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

197 W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may
198 authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, or
199 licensed practical nurse under the direction and immediate supervision of a registered nurse, when the
200 prescriber is not physically present.

201 X. *This section shall not prevent the administration of influenza vaccine by certified emergency*
202 *medical services personnel who are employed by or affiliated with a licensed emergency medical*
203 *services agency and who have received the training necessary to safely administer influenza vaccine*
204 *when vaccines are administered in accordance with § 32.1-42.2 and protocols established by the State*
205 *Health Commissioner and under the direction, control, and supervision of the Commissioner and their*
206 *operational medical director.*