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**HOUSE BILL NO. 286**

Offered January 13, 2010

Prefiled January 11, 2010

A *BILL to amend and reenact § 54.1-3303 of the Code of Virginia, relating to treatment of infectious disease.*

Patrons—Dance, Herring, James and Torian

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-3303 of the Code of Virginia is amended and reenacted as follows:**

§ 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 prescription.

C. *Notwithstanding any provision of law to the contrary, a practitioner may prescribe Schedule VI controlled substances, consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, without having performed the patient examination required in clause (iii) of subsection A, when, in his professional judgment, he deems there is urgency to begin treatment or to prevent the transmission of a communicable disease to close contacts of a diagnosed patient with whom the practitioner meets all other requirements of a bona fide practitioner-patient relationship as defined in subsection A.*

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

DE. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal

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59 or therapeutic purpose within the scope of his professional practice.

60 *EF.* A licensed physician assistant who is authorized to prescribe controlled substances pursuant to  
61 § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled  
62 substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal  
63 or therapeutic purpose within the scope of his professional practice.

64 *FG.* A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to  
65 Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title may issue prescriptions in good faith or  
66 provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within  
67 the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant  
68 to § 54.1-3223, which shall be limited to (i) oral analgesics included in Schedules III through VI, as  
69 defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are  
70 appropriate to relieve ocular pain, (ii) other oral Schedule VI controlled substances, as defined in  
71 § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human  
72 eye and its adnexa, (iii) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug  
73 Control Act, and (iv) intramuscular administration of epinephrine for treatment of emergency cases of  
74 anaphylactic shock.

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