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HOUSE BILL NO. 286

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Delegate Dance)

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

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 and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, for the close contact except for the physical examination required in clause (iii) of subsection A; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability.*

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 (§ 54.1-3400 et seq.) in good faith to his

60 patient for a medicinal or therapeutic purpose within the scope of his professional practice.

61 EF. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to
62 § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled
63 substances and devices as set forth in Chapter 34 of this title (§ 54.1-3400 *et seq.*) in good faith to his
64 patient for a medicinal or therapeutic purpose within the scope of his professional practice.

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

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