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HOUSE BILL NO. 1129

Offered January 13, 2014

A *BILL to amend and reenact § 54.1-3408 of the Code of Virginia, relating to physician assistants; possession and administration of topical fluoride varnish.*

Patron—Garrett

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:

§ 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 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 drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices 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 who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory care practitioner as defined in § 54.1-2954 who administers 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 and oxygen 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.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

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

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59 Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or
60 licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and
61 administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of
62 Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers
63 for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall
64 be updated to incorporate any subsequently implemented standards of the Occupational Safety and
65 Health Administration and the Department of Labor and Industry to the extent that they are inconsistent
66 with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe
67 the categories of persons to whom the tuberculin test is to be administered and shall provide for
68 appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the
69 nurse implementing such standing protocols has received adequate training in the practice and principles
70 underlying tuberculin screening.

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

75 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
76 professional practice, such prescriber may authorize, with the consent of the parents as defined in
77 § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to
78 assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes
79 and who requires insulin injections during the school day or for whom glucagon has been prescribed for
80 the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed
81 nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of
82 the medication.

83 Pursuant to a written order issued by the prescriber within the course of his professional practice,
84 such prescriber may authorize an employee of a provider licensed by the Department of Behavioral
85 Health and Developmental Services or a person providing services pursuant to a contract with a provider
86 licensed by the Department of Behavioral Health and Developmental Services to assist with the
87 administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who
88 requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of
89 hypoglycemia, provided such employee or person providing services has been trained in the
90 administration of insulin and glucagon.

91 I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the
92 administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is
93 not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses
94 under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in
95 accordance with established protocols of the Department of Health may authorize the administration of
96 vaccines to any person by a pharmacist, nurse, certified emergency medical technician-intermediate, or
97 emergency medical technician-paramedic under the direction of an operational medical director when the
98 prescriber is not physically present. Emergency medical services personnel shall provide documentation
99 of the vaccines to be recorded in the Virginia Immunization Information System.

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

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

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

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

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

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

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 (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student at a private school that complies with the accreditation requirements set forth in § 22.1-19 and is accredited by the Virginia Council for Private Education, provided such person (a) 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; (b) has obtained written authorization from a parent or guardian; (c) 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 (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

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 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.), in the ordinary

182 course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical
183 needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the
184 purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the
185 orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and
186 direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a
187 patient care dialysis technician trainee from performing dialysis care as part of and within the scope of
188 the clinical skills instruction segment of a supervised dialysis technician training program, provided such
189 trainee is identified as a "trainee" while working in a renal dialysis facility.

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

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

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

200 V. A *physician assistant*, nurse or a dental hygienist may possess and administer topical fluoride
201 varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a
202 standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to
203 standards adopted by the ~~Virginia~~ Department of Health.

204 W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may
205 authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse,
206 licensed practical nurse under the direction and immediate supervision of a registered nurse, certified
207 emergency medical technician-intermediate, or emergency medical technician-paramedic when the
208 prescriber is not physically present.

209 X. Notwithstanding the provisions of § 54.1-3303 and only for the purpose of participation in pilot
210 programs conducted by the Department of Behavioral Health and Developmental Services, a person may
211 obtain a prescription for a family member or a friend and may possess and administer naloxone for the
212 purpose of counteracting the effects of opiate overdose.