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HOUSE BILL NO. 860

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 54.1-3408 of the Code of Virginia, relating to professional use by practitioners; inhaled asthma medications.

Patrons—Bell and Keam

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 therapist 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 or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

64 Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of
65 his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen
66 for administration in treatment of emergency medical conditions.

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

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

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

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

92 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
93 professional practice, such prescriber may authorize, with the consent of the parents as defined in
94 § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in
95 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19
96 as administered by the Virginia Council for Private Education who is trained in the administration of
97 insulin and glucagon to assist with the administration of insulin or administer glucagon to a student
98 diagnosed as having diabetes and who requires insulin injections during the school day or for whom
99 glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall
100 only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not
101 present to perform the administration of the medication.

102 Pursuant to a written order or standing protocol issued by the prescriber within the course of his
103 professional practice, such prescriber may authorize an employee of a public institution of higher
104 education or a private institution of higher education who is trained in the administration of insulin and
105 glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed
106 as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the
107 emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse,
108 nurse practitioner, physician, or physician assistant is not present to perform the administration of the
109 medication.

110 Pursuant to a written order issued by the prescriber within the course of his professional practice,
111 such prescriber may authorize an employee of a provider licensed by the Department of Behavioral
112 Health and Developmental Services or a person providing services pursuant to a contract with a provider
113 licensed by the Department of Behavioral Health and Developmental Services to assist with the
114 administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who
115 requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of
116 hypoglycemia, provided such employee or person providing services has been trained in the
117 administration of insulin and glucagon.

118 I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the
119 administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is
120 not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses

under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

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

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

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 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 prescriber'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) an 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

182 a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a
183 local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant
184 to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has
185 satisfactorily completed a training program for this purpose approved by the Board of Nursing and
186 taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of
187 medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or
188 guardian; (c) administers drugs only to the child identified on the prescription label in accordance with
189 the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d)
190 administers only those drugs that were dispensed from a pharmacy and maintained in the original,
191 labeled container that would normally be self-administered by the child or student, or administered by a
192 parent or guardian to the child or student.

193 P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by
194 persons if they are authorized by the State Health Commissioner in accordance with protocols
195 established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has
196 declared a disaster or a state of emergency or the United States Secretary of Health and Human Services
197 has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public
198 health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such
199 persons have received the training necessary to safely administer or dispense the needed drugs or
200 devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and
201 supervision of the State Health Commissioner.

202 Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by
203 unlicensed individuals to a person in his private residence.

204 R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his
205 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to
206 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid
207 prescriptions.

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

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

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

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

229 V. A physician assistant, nurse, or dental hygienist may possess and administer topical fluoride
230 varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine,
231 osteopathic medicine, or dentistry.

232 W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may
233 authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse,
234 licensed practical nurse under the direction and immediate supervision of a registered nurse, or
235 emergency medical services provider who holds an advanced life support certificate issued by the
236 Commissioner of Health when the prescriber is not physically present.

237 X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order
238 issued by a prescriber or a standing order issued by the Commissioner of Health or his designee
239 authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the
240 absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with
241 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the
242 Department of Health, a pharmacist, a health care provider providing services in a hospital emergency
243 department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may

dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the child's parent as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration or supervision of self-administered inhaled asthma medications to administer or supervise the self-administration of such medication to a student diagnosed with a condition requiring inhaled asthma medications when the student is believed to be experiencing or about to experience an asthmatic crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.