

21103009D

SENATE BILL NO. 1322

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 21, 2021)

(Patron Prior to Substitute—Senator DeSteph)

A BILL to amend and reenact § 8.01-225 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-274.6, relating to public schools; seizure management and action plan; biennial training.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-225 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-274.6 as follows:

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or

60 omission in the use of an AED in an emergency where the person performing the defibrillation acts as
61 an ordinary, reasonably prudent person would have acted under the same or similar circumstances,
62 unless such personal injury results from gross negligence or willful or wanton misconduct of the person
63 rendering such emergency care.

64 8. Maintains an AED located on real property owned or controlled by such person shall be immune
65 from civil liability for any personal injury that results from any act or omission in the use in an
66 emergency of an AED located on such property unless such personal injury results from gross
67 negligence or willful or wanton misconduct of the person who maintains the AED or his agent or
68 employee.

69 9. Is an employee of a school board or of a local health department approved by the local governing
70 body to provide health services pursuant to § 22.1-274 who, while on school property or at a
71 school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii)
72 renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including,
73 but not limited to, the use of an automated external defibrillator (AED); or other emergency
74 life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of
75 Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs,
76 or orders AEDs; ~~or~~ (iv) maintains an AED; *or (v) renders care in accordance with a seizure*
77 *management and action plan pursuant to § 22.1-274.6*, shall not be liable for civil damages for ordinary
78 negligence in acts or omissions on the part of such employee while engaged in the acts described in this
79 subdivision.

80 10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol
81 System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any
82 injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other
83 place or while transporting such injured or ill person to a place accessible for transfer to any available
84 emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by
85 him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable
86 for any civil damages for acts or omissions resulting from the rendering of such emergency care,
87 treatment, or assistance, including but not limited to acts or omissions which involve violations of any
88 state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such
89 emergency care or assistance, unless such act or omission was the result of gross negligence or willful
90 misconduct.

91 11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in
92 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19
93 as administered by the Virginia Council for Private Education and is authorized by a prescriber and
94 trained in the administration of insulin and glucagon, who, upon the written request of the parents as
95 defined in § 22.1-1, assists with the administration of insulin or, in the case of a school board employee,
96 with the insertion or reinsertion of an insulin pump or any of its parts pursuant to subsection B of
97 § 22.1-274.01:1 or administers glucagon to a student diagnosed as having diabetes who requires insulin
98 injections during the school day or for whom glucagon has been prescribed for the emergency treatment
99 of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions
100 resulting from the rendering of such treatment if the insulin is administered according to the child's
101 medication schedule or such employee has reason to believe that the individual receiving the glucagon is
102 suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered
103 by the immunity granted herein, the school board or school employing him shall not be liable for any
104 civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin
105 or glucagon treatment.

106 12. Is an employee of a public institution of higher education or a private institution of higher
107 education who is authorized by a prescriber and trained in the administration of insulin and glucagon,
108 who assists with the administration of insulin or administers glucagon to a student diagnosed as having
109 diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency
110 treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or
111 omissions resulting from the rendering of such treatment if the insulin is administered according to the
112 student's medication schedule or such employee has reason to believe that the individual receiving the
113 glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee is
114 covered by the immunity granted in this subdivision, the institution shall not be liable for any civil
115 damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or
116 glucagon treatment.

117 13. Is a school nurse, an employee of a school board, an employee of a local governing body, or an
118 employee of a local health department who is authorized by a prescriber and trained in the
119 administration of epinephrine and who provides, administers, or assists in the administration of
120 epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber
121 of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions

122 resulting from the rendering of such treatment.

123 14. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by
124 the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as
125 administered by the Virginia Council for Private Education who is authorized by a prescriber and trained
126 in the administration of epinephrine and who administers or assists in the administration of epinephrine
127 to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the
128 epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions
129 resulting from the rendering of such treatment. Whenever any employee is covered by the immunity
130 granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence
131 in acts or omissions resulting from such administration or assistance.

132 15. Is an employee of a public institution of higher education or a private institution of higher
133 education who is authorized by a prescriber and trained in the administration of epinephrine and who
134 administers or assists in the administration of epinephrine to a student believed in good faith to be
135 having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil
136 damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.
137 Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not
138 be liable for any civil damages for ordinary negligence in acts or omissions resulting from such
139 administration or assistance.

140 16. Is an employee of an organization providing outdoor educational experiences or programs for
141 youth who is authorized by a prescriber and trained in the administration of epinephrine and who
142 administers or assists in the administration of epinephrine to a participant in the outdoor experience or
143 program for youth believed in good faith to be having an anaphylactic reaction, or is the prescriber of
144 the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions
145 resulting from the rendering of such treatment. Whenever any employee is covered by the immunity
146 granted in this subdivision, the organization shall not be liable for any civil damages for ordinary
147 negligence in acts or omissions resulting from such administration or assistance.

148 17. Is an employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1, is
149 authorized by a prescriber and trained in the administration of epinephrine, and provides, administers, or
150 assists in the administration of epinephrine to an individual believed in good faith to be having an
151 anaphylactic reaction on the premises of the restaurant at which the employee is employed, or is the
152 prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or
153 omissions resulting from the rendering of such treatment.

154 18. Is an employee of a provider licensed by the Department of Behavioral Health and
155 Developmental Services, or provides services pursuant to a contract with a provider licensed by the
156 Department of Behavioral Health and Developmental Services, who has been trained in the
157 administration of insulin and glucagon and who administers or assists with the administration of insulin
158 or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for
159 whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with
160 § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions
161 resulting from the rendering of such treatment if the insulin is administered in accordance with the
162 prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is
163 suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider
164 licensed by the Department of Behavioral Health and Developmental Services or a person who provides
165 services pursuant to a contract with a provider licensed by the Department of Behavioral Health and
166 Developmental Services is covered by the immunity granted herein, the provider shall not be liable for
167 any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such
168 insulin or glucagon treatment.

169 19. Is an employee of a provider licensed by the Department of Behavioral Health and
170 Developmental Services, or provides services pursuant to a contract with a provider licensed by the
171 Department of Behavioral Health and Developmental Services, who has been trained in the
172 administration of epinephrine and who administers or assists in the administration of epinephrine to a
173 person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's
174 instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions
175 resulting from the rendering of such treatment.

176 20. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for
177 overdose reversal in an emergency to an individual who is believed to be experiencing or about to
178 experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary
179 negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance
180 with the provisions of subsection X or Y of § 54.1-3408 or in his role as a member of an emergency
181 medical services agency.

182 21. In good faith administers naloxone or other opioid antagonist used for overdose reversal to a

183 person who is believed to be experiencing or about to experience a life-threatening opioid overdose in
184 accordance with the provisions of subsection Z of § 54.1-3408 shall not be liable for any civil damages
185 for any personal injury that results from any act or omission in the administration of naloxone or other
186 opioid antagonist used for overdose reversal, unless such act or omission was the result of gross
187 negligence or willful and wanton misconduct.

188 22. Is an employee of a school board, school for students with disabilities as defined in § 22.1-319
189 licensed by the Board of Education, or private school accredited pursuant to § 22.1-19 as administered
190 by the Virginia Council for Private Education who is trained in the administration of injected
191 medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency
192 and who administers or assists in the administration of such medications to a student diagnosed with a
193 condition causing adrenal insufficiency when the student is believed to be experiencing or about to
194 experience an adrenal crisis pursuant to a written order or standing protocol issued by a prescriber
195 within the course of his professional practice and in accordance with the prescriber's instructions shall
196 not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the
197 rendering of such treatment.

198 23. Is a school nurse, an employee of a school board, an employee of a local governing body, or an
199 employee of a local health department who is authorized by a prescriber and trained in the
200 administration of albuterol inhalers or nebulized albuterol and who provides, administers, or assists in
201 the administration of an albuterol inhaler or nebulized albuterol for a student believed in good faith to
202 be in need of such medication, or is the prescriber of such medication, shall not be liable for any civil
203 damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

204 24. Is an employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber
205 and trained in the administration of epinephrine and who administers or assists in the administration of
206 epinephrine to a person present in the public place believed in good faith to be having an anaphylactic
207 reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary
208 negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee
209 is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil
210 damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

211 B. Any licensed physician serving without compensation as the operational medical director for an
212 emergency medical services agency that holds a valid license as an emergency medical services agency
213 issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission
214 resulting from the rendering of emergency medical services in good faith by the personnel of such
215 licensed agency unless such act or omission was the result of such physician's gross negligence or
216 willful misconduct.

217 Any person serving without compensation as a dispatcher for any licensed public or nonprofit
218 emergency medical services agency in the Commonwealth shall not be liable for any civil damages for
219 any act or omission resulting from the rendering of emergency services in good faith by the personnel
220 of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence
221 or willful misconduct.

222 Any individual, certified by the State Office of Emergency Medical Services as an emergency
223 medical services instructor and pursuant to a written agreement with such office, who, in good faith and
224 in the performance of his duties, provides instruction to persons for certification or recertification as a
225 certified basic life support or advanced life support emergency medical services provider shall not be
226 liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf
227 of such office unless such act or omission was the result of such emergency medical services instructor's
228 gross negligence or willful misconduct.

229 Any licensed physician serving without compensation as a medical advisor to an E-911 system in the
230 Commonwealth shall not be liable for any civil damages for any act or omission resulting from
231 rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911
232 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the
233 result of such physician's gross negligence or willful misconduct.

234 Any licensed physician who directs the provision of emergency medical services, as authorized by
235 the State Board of Health, through a communications device shall not be liable for any civil damages
236 for any act or omission resulting from the rendering of such emergency medical services unless such act
237 or omission was the result of such physician's gross negligence or willful misconduct.

238 Any licensed physician serving without compensation as a supervisor of an AED in the
239 Commonwealth shall not be liable for any civil damages for any act or omission resulting from
240 rendering medical advice in good faith to the owner of the AED relating to personnel training, local
241 emergency medical services coordination, protocol approval, AED deployment strategies, and equipment
242 maintenance plans and records unless such act or omission was the result of such physician's gross
243 negligence or willful misconduct.

244 C. Any communications services provider, as defined in § 58.1-647, including mobile service, and

any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

§ 22.1-274.6. Seizure management and action plan; training.

A. The parent or guardian of a student with a diagnosed seizure disorder may submit to the local school division a seizure management and action plan developed by the student's treating physician for review by school division employees with whom the student has regular contact. The seizure management and action plan shall (i) identify the health care services the student may receive at school or while participating in a school activity, (ii) identify seizure-related medication prescribed to the student that must be administered in the event of a seizure, (iii) evaluate the student's ability to manage and understand his seizure disorder, and (iv) be signed by the student's parent or guardian, the student's treating physician, and the school nurse.

B. Each local school division shall require all school nurses employed by the division to complete, on a biennial basis, a Board of Education-approved online course of instruction for school nurses regarding treating students with seizures and seizure disorders that includes information about seizure recognition and related first aid. Approved training programs shall be fully consistent with training programs and guidelines developed by the Epilepsy Foundation of America and any successor organization.

C. Each local school division shall require all employees whose duties include regular contact with students to complete, on a biennial basis, a Board of Education-approved online course of instruction for school employees regarding treating students with seizures and seizure disorders that includes information about seizure recognition and related first aid. Approved training programs shall be fully consistent with training programs and guidelines developed by the Epilepsy Foundation of America and any successor organization.

2. That the provisions of this act shall become effective on July 1, 2022.