LD6064198

HOUSE BILL NO. 2008

Offered January 23, 1995

A BILL to amend and reenact §§ 32.1-87 and 54.1-3408 of the Code of Virginia, relating to prescriptions for controlled substances.

Patron—Davies

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-87 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-87. Use of Formulary.

A. Use of the Voluntary Formulary by professional and institutional providers of health care shall be voluntary. The prescription form shall include two boxes, one labelled "Voluntary Formulary Permitted" and the other labelled "Dispense As Written." A prescriber may indicate his permission for the dispensing of a drug product included in the Formulary upon signing a prescription form and marking the box labelled "Voluntary Formulary Permitted." A Voluntary Formulary product shall be dispensed if the prescriber fails to indicate his preference. If no Voluntary Formulary product is immediately available, or if the patient objects to the dispensing of a generic drug, the pharmacist may dispense a brand name drug.

On and after July 1, 1993, printed prescription forms shall provide:

☐ Voluntary Formulary Permitted

.....

Signature of prescriber

If neither box is marked, a Voluntary Formulary product must be dispensed."

A prescriber may, as a protection against drug diversion, sign his prescriptions in colored ink or have his prescription forms printed on colored paper. If a prescriber orders a drug listed in the Formulary by its generic name, the pharmacist shall dispense a drug product from among those listed in the Formulary.

In the case of an oral prescription, the prescriber's oral dispensing instructions shall be followed. If the pharmacist dispenses a drug product other than the brand name prescribed, he shall so apprise the purchaser and shall indicate, unless otherwise directed by the prescriber, on both his permanent record and the prescription label the brand name or, in the case of a generic drug product, the name of the manufacturer or distributor.

B. When a pharmacist dispenses a drug product other than the drug product prescribed under the provisions of subsection A hereof pursuant to the Formulary, the drug product dispensed shall be at a lower retail price than that of the drug product prescribed. Such retail price shall not exceed the usual and customary retail price charged by the pharmacist for such generic or equivalent drug product dispensed.

The selection of such drug product shall be the responsibility of the pharmacist dispensing the product and no employer, agent or other person may require the dispensing of a particular drug product which in the professional judgment of the dispensing pharmacist is not in the best interest of the patient.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, or dentistry, a licensed nurse practitioner pursuant to § 54.1-2957.01 or a licensed physician's assistant pursuant to § 54.1-2952.1 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice. The practitioner may prescribe, on a written prescription or on oral prescription as authorized by this chapter, and administer drugs and devices, or he may cause them to be administered by a nurse or intern under his direction and supervision, or a practitioner may prescribe and cause drugs and devices to be administered 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 State Mental Health, Mental Retardation and Substance Abuse Services Board by other persons who have been trained to properly administer drugs and who administer drugs only under the control and supervision of the practitioner or a pharmacist. 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 certified by the Board of Dentistry who has satisfactorily completed a training program for this purpose that is approved by the Board of Dentistry.

No written prescription order form shall include more than one prescription. This provision shall not

apply, however, to the entry of any order on a patient's chart in any hospital in Virginia or to a prescription ordered through the pharmacy operated by the Department of Corrections, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Such a prescription shall be written, dated, and signed by the person prescribing on the day when issued, and shall bear the full name and address of the patient for whom the drug is prescribed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. *A prescriber may, as a protection against drug diversion, sign his prescriptions in colored ink or have his prescription forms printed on colored paper.*

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 physician's instructions pertaining to dosage, frequency, and manner of administration, when the drugs administered would be normally self-administered by (i) a resident of a facility licensed or certified by the State Mental Health, Mental Retardation and Substance Abuse Services Board; (ii) a resident of any adult care residence which is licensed by the Department of Social Services (iii) a resident of the Virginia Rehabilitation Center for the Blind; (iv) a resident of a facility approved by the Board or Department of Youth and Family Services for the placement of children in need of services or delinquent or alleged delinquent youth; or (v) a program participant of an adult day care center licensed by the Department of Social Services.

This section shall not interfere with any practitioner issuing prescriptions in compliance with 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 practitioner shall be deemed to be valid prescriptions. This section shall not prohibit a practitioner from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

B. The written prescription referred to in subsection A of this section shall be written with ink or individually typed and each prescription shall be manually signed by the practitioner. The prescription may be prepared by an agent for his signature. The prescription shall contain the name, address, telephone number, and federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand.

C. Pursuant to § 32.1-87, the prescription form shall include two boxes, one labelled "Voluntary Formulary Permitted" and the other labelled "Dispense As Written." A prescriber may indicate his permission for the dispensing of a drug product included in the Formulary upon signing a prescription form and marking the box labelled "Voluntary Formulary Permitted." A Voluntary Formulary product shall be dispensed if the prescriber fails to indicate his preference. If no Voluntary Formulary product is immediately available, or if the patient objects to the dispensing of a generic drug, the pharmacist may dispense a brand name drug. On and after July 1, 1993, printed prescription forms shall provide:

" ☐ Dispense As Written
☐ Voluntary Formulary Permitted
.....
Signature of prescriber
If neither box is marked, a Voluntary Formulary product must be dispensed."