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**HOUSE BILL NO. 561**

Offered January 9, 2008

Prefiled January 7, 2008

*A BILL to amend and reenact §§ 54.1-2722, 54.1-3005, and 54.1-3408 of the Code of Virginia, relating to administration of drugs; training of educational facility staff.*

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 Patron—Crockett-Stark
 

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 Referred to Committee on Health, Welfare and Institutions
 

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**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2722, 54.1-3005, and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing, and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of an accredited dental hygiene program offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B of this section; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection  $\text{IV}$  of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also 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. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations

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59 consistent with federal law and regulation. The Board shall require all schools to demonstrate their  
60 compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in  
61 response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to  
62 § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of  
63 licensed practical nurses to teach nurse aides;

64 9. To approve programs that entitle professional nurses to be registered as clinical nurse specialists  
65 and to prescribe minimum standards for such programs;

66 10. To maintain a registry of clinical nurse specialists and to promulgate regulations governing  
67 clinical nurse specialists;

68 11. To certify and maintain a registry of all certified massage therapists and to promulgate  
69 regulations governing the criteria for certification as a massage therapist and the standards of  
70 professional conduct for certified massage therapists;

71 12. To promulgate regulations for the delegation of certain nursing tasks and procedures not  
72 involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by  
73 and under the supervision of a registered nurse, who retains responsibility and accountability for such  
74 delegation;

75 13. To develop and revise as may be necessary, in coordination with the Boards of Medicine and  
76 Education, guidelines for the training of employees of a school board in the administration of insulin  
77 and glucagon for the purpose of assisting with routine insulin injections and providing emergency  
78 treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by  
79 September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs  
80 of publication;

81 14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate  
82 regulations for its implementation;

83 15. To collect, store and make available nursing workforce information regarding the various  
84 categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

85 16. To expedite application processing, to the extent possible, for an applicant for licensure or  
86 certification by the Board upon submission of evidence that the applicant, who is licensed or certified in  
87 another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

88 17. To register medication aides and promulgate regulations governing the criteria for such  
89 registration and standards of conduct for medication aides;

90 18. To approve training programs for medication aides to include requirements for instructional  
91 personnel, curriculum, continuing education, and a competency evaluation;

92 19. To set guidelines for the collection of data by all approved nursing education programs and to  
93 compile this data in an annual report. The data shall include but not be limited to enrollment, graduation  
94 rate, attrition rate, and number of qualified applicants who are denied admission; ~~and~~

95 20. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees  
96 of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services or  
97 the Child Day Care Council in the administration of prescription drugs as defined in the Drug Control  
98 Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical  
99 nurse, doctor of medicine or osteopathic medicine, or pharmacist; *and*

100 21. *To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees*  
101 *of private facilities licensed by the Office of Interdepartmental Regulation, in the administration of*  
102 *prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs*  
103 *shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic*  
104 *medicine, or pharmacist.*

105 § 54.1-3408. Professional use by practitioners.

106 A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed  
107 nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or  
108 a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title shall  
109 only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic  
110 purposes within the course of his professional practice.

111 B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral  
112 prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may  
113 cause them to be administered by a nurse, physician assistant or intern under his direction and  
114 supervision, or he may prescribe and cause drugs and devices to be administered to patients in  
115 state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or  
116 psychiatric hospitals licensed by the State Mental Health, Mental Retardation and Substance Abuse  
117 Services Board by other persons who have been trained properly to administer drugs and who administer  
118 drugs only under the control and supervision of the prescriber or a pharmacist or a prescriber may cause  
119 drugs and devices to be administered to patients by emergency medical services personnel who have  
120 been certified and authorized to administer such drugs and devices pursuant to Board of Health

regulations governing emergency medical services and who are acting within the scope of such certification. A prescriber may authorize a licensed respiratory care practitioner as defined in § 54.1-2954 to administer 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 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.

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

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

H. 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 a school board who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician or physician assistant is not present to perform the administration of the medication.

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

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, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as 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

182 nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI  
183 local anesthesia.

184 K. (Contingent expiration date - See Editor's note) This section shall not prevent the administration  
185 of drugs by a person who has satisfactorily completed a training program for this purpose approved by  
186 the Board of Nursing and who administers such drugs in accordance with a physician's instructions  
187 pertaining to dosage, frequency, and manner of administration, and in accordance with regulations  
188 promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs  
189 administered would be normally self-administered by (i) a resident of a facility licensed or certified by  
190 the State Mental Health, Mental Retardation and Substance Abuse Services Board, *except as identified in*  
191 *subdivision 21 of § 54.1-3005*; (ii) a resident of any assisted living facility which is licensed by the  
192 Department of Social Services; (iii) a resident of the Virginia Rehabilitation Center for the Blind and  
193 Vision Impaired; (iv) a resident of a facility approved by the Board or Department of Juvenile Justice  
194 for the placement of children in need of services or delinquent or alleged delinquent youth, *except as*  
195 *provided in subdivision 21 of § 54.1-3005*; (v) a program participant of an adult day-care center licensed  
196 by the Department of Social Services; or (vi) a resident of any facility authorized or operated by a state  
197 or local government whose primary purpose is not to provide health care services.

198 K. (Contingent effective date - see Editor's note) This section shall not prevent the administration of  
199 drugs by a person who has satisfactorily completed a training program for this purpose approved by the  
200 Board of Nursing and who administers such drugs in accordance with a physician's instructions  
201 pertaining to dosage, frequency, and manner of administration, and in accordance with regulations  
202 promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs  
203 administered would be normally self-administered by (i) a resident of a facility licensed or certified by  
204 the Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) a resident of  
205 the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility  
206 approved by the Board or Department of Juvenile Justice for the placement of children in need of  
207 services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center  
208 licensed by the Department of Social Services; or (v) a resident of any facility authorized or operated by  
209 a state or local government whose primary purpose is not to provide health care services.

210 L. (Contingent effective date - see Editor's note) Medication aides registered by the Board of Nursing  
211 pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be  
212 self-administered to residents of any assisted living facility licensed by the Department of Social  
213 Services. A registered medication aide shall administer drugs pursuant to this section in accordance with  
214 the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance  
215 with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in  
216 accordance with the assisted living facility's Medication Management Plan; and in accordance with such  
217 other regulations governing their practice promulgated by the Board of Nursing.

218 M. In addition, this section shall not prevent the administration of drugs by a person who administers  
219 such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of  
220 administration and with written authorization of a parent, and in accordance with school board  
221 regulations relating to training, security and record keeping, when the drugs administered would be  
222 normally self-administered by a student of a Virginia public school. Training for such persons shall be  
223 accomplished through a program approved by the local school boards, in consultation with the local  
224 departments of health.

225 N. In addition, this section shall not prevent the administration of drugs by a person to a child in a  
226 child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or the  
227 Child Day Care Council, provided such person (i) has satisfactorily completed a training program for  
228 this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical  
229 nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization  
230 from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in  
231 accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of  
232 administration; and (iv) administers only those drugs that were dispensed from a pharmacy and  
233 maintained in the original, labeled container that would normally be administered by a parent or  
234 guardian to the child.

235 O. *In addition, this section shall not prevent the administration of drugs by an employee of private*  
236 *facilities licensed by the Office of Interdepartmental Regulation, provided such person (i) has*  
237 *satisfactorily completed a training program for this purpose approved by the Board of Nursing and*  
238 *taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or*  
239 *pharmacist; (ii) has obtained written authorization from a parent or guardian; (iii) administers drugs*  
240 *only to the child identified on the prescription label in accordance with the prescriber's instructions*  
241 *pertaining to dosage, frequency, and manner of administration; and (iv) administers only those drugs*  
242 *that were dispensed from a pharmacy and maintained in the original, labeled container that would*  
243 *normally be administered by a parent or guardian to the child.*

*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.

*P-Q.* Nothing in this title shall prohibit the administration of normally self-administered oral or topical drugs by unlicensed individuals to a person in his private residence.

*Q-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.

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

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

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

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

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