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**HOUSE BILL NO. 1054**

House Amendments in [ ] — February 9, 2018

A BILL to amend and reenact § 54.1-3303 of the Code of Virginia, relating to treatment of sexually transmitted disease.

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Patron Prior to Engrossment—Delegate Herring10  
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Referred to Committee on Health, Welfare and Institutions13  
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**Be it enacted by the General Assembly of Virginia:**

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1. That § 54.1-3303 of the Code of Virginia is amended and reenacted as follows:  
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§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

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A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by 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.

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The B. A prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

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For purposes of this section, a bona fide practitioner-patient pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that shall exist if the practitioner shall has (i) ensure that obtained or caused to be obtained a medical or drug history is obtained of the patient; (ii) provide provided information to the patient about the benefits and risks of the drug being prescribed; (iii) perform performed or have caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner. In cases in which the practitioner is an employee of the Department of Health and is providing expedited partner therapy [ ; as defined by the Department of Health and ] consistent with the recommendations of the Centers for Disease Control and Prevention [ ; to a person 18 years of age or older for the purpose of treating a diagnosed or suspected case of chlamydia or gonorrhea ], the examination required by clause (iii) shall not be required.

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A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to the that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

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For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use

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59 of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the  
60 Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or  
61 carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and  
62 the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier  
63 pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely  
64 manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and  
65 regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide  
66 practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when  
67 the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing  
68 in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with  
69 another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with  
70 another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or  
71 in-patients.

72 *Any C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual  
73 course of treatment or for authorized research. A prescription not issued in the usual course of  
74 treatment or for authorized research is not a valid prescription.* A practitioner who prescribes any  
75 controlled substance with the knowledge that the controlled substance will be used otherwise than  
76 medicinally or for medicinal or therapeutic purposes shall be subject to the criminal penalties provided  
77 in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of  
78 controlled substances.

79 *B. D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship  
80 exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a  
81 practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for  
82 a medicinal or therapeutic purpose within the course of his professional practice.*

83 In order to determine whether a prescription that appears questionable to the pharmacist results from  
84 cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists  
85 between a prescriber and a patient, the a pharmacist shall contact the prescribing practitioner or his  
86 agent and verify the identity of the patient and name and quantity of the drug prescribed.

87 The Any person knowingly filling an invalid prescription shall be subject to the criminal penalties  
88 provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or  
89 possession of controlled substances.

90 ~~No prescription shall be filled unless there is a bona fide practitioner patient pharmacist relationship.~~

91 ~~A prescription not issued in the usual course of treatment or for authorized research is not a valid  
92 prescription.~~

93 *C. E. Notwithstanding any provision of law to the contrary and consistent with recommendations of  
94 the Centers for Disease Control and Prevention or the Department of Health, a practitioner may  
95 prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed  
96 patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as  
97 defined in subsection A B, with the diagnosed patient; (ii) in the practitioner's professional judgment, the  
98 practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable  
99 disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as  
100 defined in subsection A B, for the close contact except for the physical examination required in clause  
101 (iii) of subsection A B; and (iv) when such emergency treatment is necessary to prevent imminent risk  
102 of death, life-threatening illness, or serious disability.*

103 *D. F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state  
104 practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse  
105 practitioner, or a physician assistant authorized to issue such prescription if the prescription complies  
106 with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).*

107 *E. G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to  
108 § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled  
109 substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his  
110 patient for a medicinal or therapeutic purpose within the scope of his professional practice.*

111 *F. H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to  
112 § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled  
113 substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his  
114 patient for a medicinal or therapeutic purpose within the scope of his professional practice.*

115 *G. I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to  
116 Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide  
117 manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the  
118 scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to  
119 § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as  
120 defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in*

121 combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in  
122 §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to  
123 relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the  
124 Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its  
125 adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act;  
126 and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic  
127 shock.

128 **H. J.** The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied  
129 by a member or committee of a hospital's medical staff when approving a standing order or protocol for  
130 the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance  
131 with § 32.1-126.4.

132 **2. That the Commissioner of Health shall convene a workgroup consisting of staff of the**  
133 **Department of Health and practitioners engaged in private practice to evaluate services provided**  
134 **by the Department of Health pursuant to this act and to make appropriate recommendations for**  
135 **the use of expedited partner therapy in the Commonwealth. The Commissioner of Health shall**  
136 **report to the Secretary of Health and Human Resources concerning his findings and**  
137 **recommendations by July 1, 2019.**

138 **3. That the provisions of this act shall expire on July 1, 2020.**

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