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## SENATE BILL NO. 239

Senate Amendments in [ ] - January 13, 2020

A *BILL to amend and reenact § 54.1-3408 of the Code of Virginia, relating to medical assistants; administration of fluoride varnish.*

Patron Prior to Engrossment—Senator Barker

Referred to Committee on Education and Health

**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.

Pursuant to an order issued by the prescriber within the course of his professional practice, an

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59 employee of a provider licensed by the Department of Behavioral Health and Developmental Services or  
60 a person providing services pursuant to a contract with a provider licensed by the Department of  
61 Behavioral Health and Developmental Services may possess and administer epinephrine, provided such  
62 person is authorized and trained in the administration of epinephrine.

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

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

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

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

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

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

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

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

117 I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the  
118 administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is  
119 not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses  
120 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 a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a

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

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

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

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

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

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

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

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

228 V. A physician assistant, nurse, [ ~~medical assistant, or~~ ] dental hygienist [ , or any other person ]  
229 may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing  
230 protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

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