

21101928D

HOUSE BILL NO. 1894

Offered January 13, 2021

Prefiled January 8, 2021

A BILL to amend and reenact § 54.1-3408 of the Code of Virginia, relating to certain employees of the Department of Juvenile Justice; naloxone or other opioid antagonist.

Patrons—Kory, Hope, Carr, Helmer and Murphy

Referred to Committee on Public Safety

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 (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

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 (1) epinephrine may possess and administer epinephrine and (2) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

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

INTRODUCED

HB1894

59 higher education who is authorized by a prescriber and trained in the administration of epinephrine may
60 possess and administer epinephrine.

61 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
62 professional practice, any employee of an organization providing outdoor educational experiences or
63 programs for youth who is authorized by a prescriber and trained in the administration of epinephrine
64 may possess and administer epinephrine.

65 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
66 professional practice, and in accordance with policies and guidelines established by the Department of
67 Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3
68 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant
69 at which the employee is employed, provided that such person is trained in the administration of
70 epinephrine.

71 Pursuant to an order issued by the prescriber within the course of his professional practice, an
72 employee of a provider licensed by the Department of Behavioral Health and Developmental Services or
73 a person providing services pursuant to a contract with a provider licensed by the Department of
74 Behavioral Health and Developmental Services may possess and administer epinephrine, provided such
75 person is authorized and trained in the administration of epinephrine.

76 Pursuant to an order or standing protocol issued by the prescriber within the course of his
77 professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a
78 prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

85 F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course
86 of his professional practice, such prescriber may authorize licensed athletic trainers to possess and
87 administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use
88 in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or
89 other opioid antagonist for overdose reversal.

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

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

108 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
109 professional practice, such prescriber may authorize, with the consent of the parents as defined in
110 § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in
111 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19
112 as administered by the Virginia Council for Private Education who is trained in the administration of
113 insulin and glucagon to assist with the administration of insulin or administer glucagon to a student
114 diagnosed as having diabetes and who requires insulin injections during the school day or for whom
115 glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall
116 only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not
117 present to perform the administration of the medication.

118 Pursuant to a written order or standing protocol issued by the prescriber within the course of his
119 professional practice, such prescriber may authorize an employee of a public institution of higher
120 education or a private institution of higher education who is trained in the administration of insulin and

glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections 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.

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

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, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses 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.

182 M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.)
183 of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any
184 assisted living facility licensed by the Department of Social Services. A registered medication aide shall
185 administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to
186 dosage, frequency, and manner of administration; in accordance with regulations promulgated by the
187 Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living
188 facility's Medication Management Plan; and in accordance with such other regulations governing their
189 practice promulgated by the Board of Nursing.

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

197 O. (Effective until July 1, 2021) In addition, this section shall not prevent the administration of drugs
198 by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State
199 Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private
200 school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private
201 Education, provided such person (a) has satisfactorily completed a training program for this purpose
202 approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse
203 practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has
204 obtained written authorization from a parent or guardian; (c) administers drugs only to the child
205 identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage,
206 frequency, and manner of administration; and (d) administers only those drugs that were dispensed from
207 a pharmacy and maintained in the original, labeled container that would normally be self-administered
208 by the child or student, or administered by a parent or guardian to the child or student.

209 O. (Effective July 1, 2021) In addition, this section shall not prevent the administration of drugs by a
210 person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of
211 Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is
212 accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided
213 such person (a) has satisfactorily completed a training program for this purpose approved by the Board
214 of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician
215 assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written
216 authorization from a parent or guardian; (c) administers drugs only to the child identified on the
217 prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and
218 manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy
219 and maintained in the original, labeled container that would normally be self-administered by the child
220 or student, or administered by a parent or guardian to the child or student.

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

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

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

236 S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care
237 technicians who are certified by an organization approved by the Board of Health Professions or persons
238 authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary
239 course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical
240 needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the
241 purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the
242 orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and
243 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.).

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.

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.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, 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 authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may 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 the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers*, 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.

Notwithstanding the provisions of § 54.1-3303, 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 authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with

305 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the
306 Department of Health.

307 For the purposes of this subsection, "public place" means any enclosed area that is used or held out
308 for use by the public, whether owned or operated by a public or private interest.

309 Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of
310 an organization that provides services to individuals at risk of experiencing an opioid overdose or
311 training in the administration of naloxone for overdose reversal may dispense naloxone to a person who
312 has received instruction on the administration of naloxone for opioid overdose reversal, provided that
313 such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with
314 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the
315 Department of Health. If the person acting on behalf of an organization dispenses naloxone in an
316 injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the
317 Department of Behavioral Health and Developmental Services to train individuals on the proper
318 administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall
319 obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not
320 charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a
321 site other than that of the controlled substance registration provided the entity possessing the controlled
322 substances registration maintains records in accordance with regulations of the Board of Pharmacy. No
323 person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a
324 fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the
325 naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may
326 possess naloxone and may administer naloxone to a person who is believed to be experiencing or about
327 to experience a life-threatening opioid overdose.

328 Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used
329 for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a
330 person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

331 AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
332 professional practice, such prescriber may authorize, with the consent of the parents as defined in
333 § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in
334 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19
335 as administered by the Virginia Council for Private Education who is trained in the administration of
336 injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal
337 insufficiency to administer such medication to a student diagnosed with a condition causing adrenal
338 insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis.
339 Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or
340 physician assistant is not present to perform the administration of the medication.