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HOUSE BILL NO. 1709

Offered January 11, 2023

Prefiled January 9, 2023

A *BILL to amend and reenact § 54.1-3408 of the Code of Virginia, relating to Department of Corrections; possession and administration of naloxone.*

Patron—Cherry

Referred to Committee on Health, Welfare and Institutions

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, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, 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 standing protocol that shall be issued by the local health director 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 the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber 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 (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or

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59 nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized
60 albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

61 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
62 professional practice, any nurse at an early childhood care and education entity, employee at the entity,
63 or employee of a local health department who is authorized by a prescriber and trained in the
64 administration of epinephrine 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, any employee of a public institution of higher education or a private institution of
67 higher education who is authorized by a prescriber and trained in the administration of epinephrine may
68 possess and administer epinephrine.

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

73 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
74 professional practice, and in accordance with policies and guidelines established by the Department of
75 Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3
76 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant
77 at which the employee is employed, provided that such person is trained in the administration of
78 epinephrine.

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

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

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

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

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

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

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

116 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
117 professional practice, such prescriber may authorize, with the consent of the parents as defined in
118 § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in
119 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19
120 as administered by the Virginia Council for Private Education 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.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher 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.

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 § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

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, 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, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (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.

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

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.

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.), 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

244 patient care dialysis technician trainee from performing dialysis care as part of and within the scope of
245 the clinical skills instruction segment of a supervised dialysis technician training program, provided such
246 trainee is identified as a "trainee" while working in a renal dialysis facility.

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

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

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

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

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

266 X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order
267 issued by a prescriber or a standing order issued by the Commissioner of Health or his designee
268 authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the
269 absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with
270 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the
271 Department of Health, a pharmacist, a health care provider providing services in a hospital emergency
272 department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may
273 dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone
274 or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer
275 naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be
276 experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as
277 defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the
278 Chief Medical Examiner, employees of the Department of General Services Division of Consolidated
279 Laboratory Services, employees of the Department of Corrections designated by the *Director of the*
280 *Department of Corrections* or designated as probation and parole officers or as correctional officers as
281 defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole
282 officers or as juvenile correctional officers, employees of regional jails, school nurses, local health
283 department employees that are assigned to a public school pursuant to an agreement between the local
284 health department and the school board, other school board employees or individuals contracted by a
285 school board to provide school health services, and firefighters who have completed a training program
286 may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may
287 dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or
288 standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his
289 designee in accordance with protocols developed by the Board of Pharmacy in consultation with the
290 Board of Medicine and the Department of Health.

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

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

305 training program on the administration of such naloxone and administers naloxone in accordance with
306 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the
307 Department of Health.

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

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

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

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