

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 544

An Act to amend and reenact § 54.1-111 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation and the Department of Health Professions; authority to recover civil penalties for certain violations.

[H 2142]

Approved March 23, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-111 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-111. Unlawful acts; prosecution; proceedings in equity.

A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.

2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

3. Making use of any titles, words, letters or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.

5. Failing to register as a practitioner of a profession or occupation as required by statute or regulation.

6. Materially misrepresenting facts in an application for licensure, certification or registration.

7. Willfully refusing to furnish a regulatory board information or records required or requested pursuant to statute or regulation.

8. Violating any statute or regulation governing the practice of any profession or occupation regulated pursuant to this title.

9. Refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice.

Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a thirty-six-month period shall constitute a Class 6 felony.

B. In addition to the criminal penalties provided for in subsection A ~~of this section~~, the Department of Professional and Occupational Regulation or the Department of Health Professions, without compliance with the Administrative Process Act (§ 9-6.14:1 et seq.), shall have the authority to enforce the provisions of subsection A ~~of this section~~ and may institute proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section *and to recover a civil penalty of at least \$200 but not more than \$1,000 per violation, with each unlawful act constituting a separate violation; but in no event shall the civil penalties against any one person, partnership, corporation or other entity exceed \$10,000 per year.* Such proceedings shall be brought in the name of the Commonwealth by the appropriate Department in the circuit court *or general district court* of the city or county in which the unlawful act occurred or in which the defendant resides.

C. This section shall not be construed to prohibit or prevent the owner of patient records from (i) retaining copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice or (ii) charging a reasonable fee, not in excess of the amounts authorized in § 8.01-413, for copies of patient records.