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**HOUSE BILL NO. 2095**

Offered January 10, 2001

Prefiled January 10, 2001

*A BILL to amend and reenact §§ 8.01-581.13, 38.2-3412.1, as it is currently effective and as it shall become effective, 54.1-2400.1, 54.1-3500, 54.1-3501, 54.1-3505, 54.1-3506, and 54.1-3507 of the Code of Virginia; and to amend the Code of Virginia by adding sections numbered 54.1-3507.1, 54.1-3507.2, and 54.1-3507.3, and by adding in Article 1.1 of Chapter 35 of Title 54 a section numbered 54.1-3509, relating to substance abuse counselors and substance abuse counseling assistants.*

Patrons—Devolites, Albo, Purkey and Rust

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-581.13, 38.2-3412.1, as it is currently effective and as it shall become effective, 54.1-2400.1, 54.1-3500, 54.1-3501, 54.1-3505, 54.1-3506, and 54.1-3507 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 54.1-3507.1, 54.1-3507.2, and 54.1-3507.3, and by adding in Article 1.1 of Chapter 35 of Title 54 a section numbered 54.1-3509 as follows:**

§ 8.01-581.13. Civil immunity for certain health professionals and health profession students serving as members of certain entities.

A. For the purposes of this subsection, "health professional" means any ~~certain~~ ~~substance abuse~~ ~~counselor~~, clinical psychologist, applied psychologist, school psychologist, dentist, licensed professional counselor, licensed substance abuse treatment practitioner, *certified substance abuse counselor, certified substance abuse counseling assistant*, marriage and family therapist, nurse, optometrist, pharmacist, physician, chiropractor, podiatrist, or veterinarian who is actively engaged in the practice of his profession or any member of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

Unless such act, decision, or omission resulted from such health professional's bad faith or malicious intent, any health professional, as defined in this subsection, shall be immune from civil liability for any act, decision or omission resulting from his duties as a member or agent of any entity which functions primarily (i) to investigate any complaint that a physical or mental impairment, including alcoholism or drug addiction, has impaired the ability of any such health professional to practice his profession and (ii) to encourage, recommend and arrange for a course of treatment or intervention, if deemed appropriate, or (iii) to review the duration of patient stays in health facilities or delivery of professional services for the purpose of promoting the most efficient use of available health facilities and services, the adequacy and quality of professional services, or the reasonableness or appropriateness of charges made by or on behalf of such health professionals. Such entity shall have been established pursuant to a federal or state law, or by one or more public or licensed private hospitals, or a relevant health professional society, academy or association affiliated with the American Medical Association, the American Dental Association, the American Pharmaceutical Association, the American Psychological Association, the American Podiatric Medical Association, the American Society of Hospitals and Pharmacies, the American Veterinary Medical Association, the American Association for Counseling and Development, the American Optometric Association, International Chiropractic Association, the American Chiropractic Association, the ~~National Association of Alcoholism and Drug Abuse Counselors~~ *NAADAC: the Association for Addiction Professionals*, the American Association for Marriage and Family Therapy or a governmental agency.

B. For the purposes of this subsection, "health profession student" means a student in good standing who is enrolled in an accredited school, program, or curriculum in clinical psychology, counseling, dentistry, medicine, nursing, pharmacy, chiropractic, marriage and family therapy, substance abuse treatment, or veterinary medicine and has received training relating to substance abuse.

Unless such act, decision, or omission resulted from such health profession student's bad faith or malicious intent, any health profession student, as defined in this subsection, shall be immune from civil liability for any act, decision, or omission resulting from his duties as a member of an entity established by the institution of higher education in which he is enrolled or a professional student's organization affiliated with such institution which functions primarily (i) to investigate any complaint of a physical or mental impairment, including alcoholism or drug addiction, of any health profession student and (ii) to encourage, recommend, and arrange for a course of treatment, if deemed appropriate.

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HB2095

59 C. The immunity provided hereunder shall not extend to any person with respect to actions, decisions  
60 or omissions, liability for which is limited under the provisions of the federal Social Security Act or  
61 amendments thereto.

62 § 38.2-3412.1. (Effective until July 1, 2004) Coverage for mental health and substance abuse  
63 services.

64 A. As used in this section:

65 "Adult" means any person who is nineteen years of age or older.

66 "Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the  
67 treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the  
68 State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the State Mental  
69 Health, Mental Retardation and Substance Abuse Services Board pursuant to Chapter 8 (§ 37.1-179 et  
70 seq.) of Title 37.1 or (ii) a state agency or institution.

71 "Child or adolescent" means any person under the age of nineteen years.

72 "Inpatient treatment" means mental health or substance abuse services delivered on a  
73 twenty-four-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care  
74 facility or an inpatient unit of a mental health treatment center.

75 "Intermediate care facility" means a licensed, residential public or private facility that is not a  
76 hospital and that is operated primarily for the purpose of providing a continuous, structured  
77 twenty-four-hour per day, state-approved program of inpatient substance abuse services.

78 "Medication management visit" means a visit no more than twenty minutes in length with a licensed  
79 physician or other licensed health care provider with prescriptive authority for the sole purpose of  
80 monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

81 "Mental health services" means treatment for mental, emotional or nervous disorders.

82 "Mental health treatment center" means a treatment facility organized to provide care and treatment  
83 for mental illness through multiple modalities or techniques pursuant to a written plan approved and  
84 monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this  
85 Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for  
86 funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with  
87 an established system for patient referral.

88 "Outpatient treatment" means mental health or substance abuse treatment services rendered to a  
89 person as an individual or part of a group while not confined as an inpatient. Such treatment shall not  
90 include services delivered through a partial hospitalization or intensive outpatient program as defined  
91 herein.

92 "Partial hospitalization" means a licensed or approved day or evening treatment program that includes  
93 the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed  
94 for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who  
95 require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall  
96 provide treatment over a period of six or more continuous hours per day to individuals or groups of  
97 individuals who are not admitted as inpatients. Such term shall also include intensive outpatient  
98 programs for the treatment of alcohol or other drug dependence which provide treatment over a period  
99 of three or more continuous hours per day to individuals or groups of individuals who are not admitted  
100 as inpatients.

101 "Substance abuse services" means treatment for alcohol or other drug dependence.

102 "Treatment" means services including diagnostic evaluation, medical, psychiatric and psychological  
103 care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence  
104 rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health  
105 treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed  
106 professional counselor, licensed substance abuse treatment practitioner, *certified substance abuse*  
107 *counselor*, *certified substance abuse counseling assistant*, marriage and family therapist or clinical nurse  
108 specialist who renders mental health services. Treatment for physiological or psychological dependence  
109 on alcohol or other drugs shall also include the services of counseling and rehabilitation as well as  
110 services rendered by a state certified alcoholism, drug, or substance abuse counselor *or substance abuse*  
111 *counseling assistant* employed by a facility or program licensed to provide such treatment.

112 B. Each individual and group accident and sickness insurance policy or individual and group  
113 subscription contract providing coverage on an expense-incurred basis for a family member of the  
114 insured or the subscriber shall provide coverage for inpatient and partial hospitalization mental health  
115 and substance abuse services as follows:

116 1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment  
117 center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of  
118 twenty days per policy or contract year.

119 2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health  
120 treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period

of twenty-five days per policy or contract year.

3. Up to ten days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336, of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for each inpatient day of coverage. An insurance policy or subscription contract described herein which provides inpatient benefits in excess of twenty days per policy or contract year for adults or twenty-five days per policy or contract year for a child or adolescent may provide for the conversion of such excess days on the terms set forth in this subdivision.

4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any other illness, except that the benefits may be limited as set out in this subsection.

5. This subsection shall not apply to short-term travel, accident only, limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

C. Each individual and group accident and sickness insurance policy or individual and group subscription contract providing coverage on an expense-incurred basis for a family member of the insured or the subscriber shall also provide coverage for outpatient mental health and substance abuse services as follows:

1. A minimum of twenty visits for outpatient treatment of an adult, child or adolescent shall be provided in each policy or contract year.

2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit beyond the first five of such visits covered in any policy or contract year shall be at least fifty percent.

3. For the purpose of this section, medication management visits shall be covered in the same manner as a medication management visit for the treatment of physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth herein.

4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health or substance abuse treatment apply toward any deductible required by a policy or contract, such visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

5. This subsection shall not apply to short-term travel, accident only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

D. The provisions of this section shall not be applicable to "biologically based mental illnesses," as defined in § 38.2-3412.1:01, unless coverage for any such mental illness is not otherwise available pursuant to the provisions § 38.2-3412.1:01.

E. The requirements of this section shall apply to all insurance policies and subscription contracts delivered, issued for delivery, reissued, or extended, or at any time when any term of the policy or contract is changed or any premium adjustment made.

§ 38.2-3412.1. (Effective July 1, 2004) Coverage for mental health and substance abuse services

A. As used in this section:

"Adult" means any person who is nineteen years of age or older.

"Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the State Mental Health, Mental Retardation and Substance Abuse Services Board pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 or (ii) a state agency or institution.

"Child or adolescent" means any person under the age of nineteen years.

"Inpatient treatment" means mental health or substance abuse services delivered on a twenty-four-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care facility or an inpatient unit of a mental health treatment center.

"Intermediate care facility" means a licensed, residential public or private facility that is not a hospital and that is operated primarily for the purpose of providing a continuous, structured twenty-four-hour per day, state-approved program of inpatient substance abuse services.

"Medication management visit" means a visit no more than twenty minutes in length with a licensed physician or other licensed health care provider with prescriptive authority for the sole purpose of monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

"Mental health services" means treatment for mental, emotional or nervous disorders.

"Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness through multiple modalities or techniques pursuant to a written plan approved and

182 monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this  
183 Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for  
184 funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with  
185 an established system for patient referral.

186 "Outpatient treatment" means mental health or substance abuse treatment services rendered to a  
187 person as an individual or part of a group while not confined as an inpatient. Such treatment shall not  
188 include services delivered through a partial hospitalization or intensive outpatient program as defined  
189 herein.

190 "Partial hospitalization" means a licensed or approved day or evening treatment program that includes  
191 the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed  
192 for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who  
193 require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall  
194 provide treatment over a period of six or more continuous hours per day to individuals or groups of  
195 individuals who are not admitted as inpatients. Such term shall also include intensive outpatient  
196 programs for the treatment of alcohol or other drug dependence which provide treatment over a period  
197 of three or more continuous hours per day to individuals or groups of individuals who are not admitted  
198 as inpatients.

199 "Substance abuse services" means treatment for alcohol or other drug dependence.

200 "Treatment" means services including diagnostic evaluation, medical, psychiatric and psychological  
201 care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence  
202 rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health  
203 treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed  
204 professional counselor, licensed substance abuse treatment practitioner, *certified substance abuse*  
205 *counselor*, *certified substance abuse counseling assistant*, marriage and family therapist or clinical nurse  
206 specialist who renders mental health services. Treatment for physiological or psychological dependence  
207 on alcohol or other drugs shall also include the services of counseling and rehabilitation as well as  
208 services rendered by a state certified alcoholism, drug, or substance abuse counselor *or substance abuse*  
209 *counseling assistant* employed by a facility or program licensed to provide such treatment.

210 B. Each individual and group accident and sickness insurance policy or individual and group  
211 subscription contract providing coverage on an expense-incurred basis for a family member of the  
212 insured or the subscriber shall provide coverage for inpatient and partial hospitalization mental health  
213 and substance abuse services as follows:

214 1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment  
215 center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of  
216 twenty days per policy or contract year.

217 2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health  
218 treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period  
219 of twenty-five days per policy or contract year.

220 3. Up to ten days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be  
221 converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336,  
222 of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula  
223 which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for  
224 each inpatient day of coverage. An insurance policy or subscription contract described herein which  
225 provides inpatient benefits in excess of twenty days per policy or contract year for adults or twenty-five  
226 days per policy or contract year for a child or adolescent may provide for the conversion of such excess  
227 days on the terms set forth in this subdivision.

228 4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any  
229 other illness, except that the benefits may be limited as set out in this subsection.

230 5. This subsection shall not apply to short-term travel, accident only, limited or specified disease  
231 policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage  
232 under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under  
233 state or federal governmental plans.

234 C. Each individual and group accident and sickness insurance policy or individual and group  
235 subscription contract providing coverage on an expense-incurred basis for a family member of the  
236 insured or the subscriber shall also provide coverage for outpatient mental health and substance abuse  
237 services as follows:

238 1. A minimum of twenty visits for outpatient treatment of an adult, child or adolescent shall be  
239 provided in each policy or contract year.

240 2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of  
241 benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit  
242 beyond the first five of such visits covered in any policy or contract year shall be at least fifty percent.

243 3. For the purpose of this section, medication management visits shall be covered in the same

manner as a medication management visit for the treatment of physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth herein.

4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health or substance abuse treatment apply toward any deductible required by a policy or contract, such visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

5. This subsection shall not apply to short-term travel, accident only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

D. The requirements of this section shall apply to all insurance policies and subscription contracts delivered, issued for delivery, reissued, or extended, or at any time when any term of the policy or contract is changed or any premium adjustment made.

§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner," *"certified substance abuse counselor"* or *"certified substance abuse counseling assistant"* means any person licensed or certified to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, *certified substance abuse counseling assistant*, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, professional counselor, psychologist, registered nurse, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks civil commitment of the client under Chapter 2 (§ 37.1-63 et seq.) of Title 37.1.

2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of eighteen.

3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or

potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age eighteen, or both.

4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.

5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.

2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.

3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

§ 54.1-3500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Counseling.

"Certified substance abuse counselor" means a person ~~certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility~~ who is trained in, who is certified to engage in, and who, under the supervision or direction either of a licensed substance abuse treatment practitioner, or of another person licensed under this title with substantially equivalent education, training, and experience, or of a certified substance abuse counselor, or who in compliance with the supervision requirements of a licensed facility, engages in selected aspects of the practice of substance abuse treatment, as approved and monitored by the person's supervisor, with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence. Certified substance abuse counseling assistants shall not engage in independent or autonomous practice.

"Certified substance abuse counselor" means a person (i) who is trained in, who is certified to engage in, and who, under the supervision or direction of a licensed substance abuse treatment practitioner or another person licensed under this title with substantially equivalent education, training, and experience, or who, in compliance with the supervision requirements of a licensed facility, engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; (ii) who has primary responsibility for client care of persons with a primary diagnosis of substance abuse or dependence; and (iii) who is qualified to supervise, direct and instruct certified substance abuse counseling assistants. Certified substance abuse counselors shall not engage in independent or autonomous practice.

"Counseling" means the therapeutic process of: (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional or behavioral disorders and associated distresses which interfere with mental health.

"Counseling treatment intervention" means those cognitive, affective, behavioral and systemic counseling strategies, techniques and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others; and (iii) is qualified to supervise, direct, and instruct certified substance abuse counseling and certified substance abuse counseling assistants.

"Marriage and family therapist" means a person trained in the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods or procedures of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric or legal resources when such referrals are indicated.

§ 54.1-3501. Exemption from requirements of licensure.

The requirements for licensure in this chapter shall not be applicable to:

1. Persons who render services that are like or similar to those falling within the scope of the classifications or categories in this chapter, including persons acting as members of substance abuse self-help groups, so long as the recipients or beneficiaries of such services are not subject to any charge or fee, or any financial requirement, actual or implied, and the person rendering such service is not held out, by himself or otherwise, as a person licensed or *certified* under this chapter.

2. The activities or services of a student pursuing a course of study in counseling, substance abuse treatment or marriage and family therapy in an institution accredited by an accrediting agency recognized by the Board or under the supervision of a person licensed or certified under this chapter, if such activities or services constitute a part of the student's course of study and are adequately supervised.

3. The activities, including marriage and family therapy, counseling, or substance abuse treatment, of rabbis, priests, ministers or clergymen of any religious denomination or sect when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made or when such activities are performed, whether with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination or sect, and the person rendering service remains accountable to its established authority.

4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated employment, engages in an independent private practice shall not be exempt from the requirements for licensure.

5. Persons regularly employed by private business firms as personnel managers, deputies or assistants so long as their counseling activities relate only to employees of their employer and in respect to their employment.

6. Persons regulated by this Board as professional counselors or persons regulated by another board within the Department of Health Professions who provide, within the scope of their practice, marriage and family therapy, counseling or substance abuse treatment to individuals or groups.

§ 54.1-3505. Specific powers and duties of the Board.

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community

to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.

5. Expired.

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners *and certification of certified substance abuse counselors and certified substance abuse counseling assistants*. The requirements for membership in ~~the National Association of Alcoholism and Drug Abuse Counselors~~ *NAADAC: the Association for Addiction Professionals* and its national examination may be considered by the Board in the promulgation of these regulations. *The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia.* The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. *Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.*

§ 54.1-3506. License required.

A. In order to engage in the practice of counseling or marriage and family therapy or in the independent practice of substance abuse treatment, as defined in this chapter, it shall be necessary to hold a license; however, no license shall be required for the practice of marriage and family therapy or the independent practice of substance abuse treatment until six months after the effective date of regulations governing marriage and family therapy and substance abuse treatment, respectively, promulgated by the Board under subdivisions 6 and 7 of § 54.1-3505. The Board may issue a license, without examination, for the practice of marriage and family therapy or the independent practice of substance abuse treatment to persons who hold a current and unrestricted license as a professional counselor within the Commonwealth and who meet the clinical and academic requirements for licensure as a marriage and family therapist or licensed substance abuse treatment practitioner, respectively. The applicant for such license shall present satisfactory evidence of qualifications equal to those required of applicants for licensure as marriage and family therapists or licensed substance abuse treatment practitioners, respectively, by examination in the Commonwealth.

B. *In order to engage in those aspects of the practice of substance abuse treatment in which a certified substance abuse counselor or certified substance abuse counseling assistant engages, as defined in this chapter, it shall be necessary to be certified as a certified substance abuse counselor or certified substance abuse counseling assistant, respectively, or to hold a license as a substance abuse treatment practitioner or otherwise be licensed under this title to perform those aspects of such practice.*

C. Any person who renders substance abuse treatment services as defined in this chapter and who is not licensed to do so, other than a person who is exempt pursuant to § 54.1-3501, shall render such services only when he is (i) under the supervision and direction of a person licensed under this chapter who shall be responsible for the services performed by such unlicensed person, or (ii) in compliance with the regulations governing an organization or a facility licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

§ 54.1-3507. Scope of practice of and qualifications for licensed substance abuse treatment practitioners.

A. A licensed substance abuse treatment practitioner shall be qualified to (i) perform on an independent basis the substance abuse treatment functions of screening, intake, orientation, assessment, treatment planning, treatment, case management, substance abuse or dependence crisis intervention, client education, referral activities, recordkeeping, and consultation with other professionals; (ii) exercise independent professional judgment, based on observations and objective assessments of a client's behavior, to evaluate current functioning, to diagnose and select appropriate remedial treatment for



identified problems, and to make appropriate referrals; and (iii) supervise, direct and instruct others who provide substance abuse treatment.

B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed substance abuse treatment practitioner shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified number of hours of graduate studies, including a specified number of didactic substance abuse education courses at, and has received a master's degree in substance abuse or a substantially equivalent master's degree from, a college or university accredited by an accrediting agency recognized by the Board; and (ii) completed a specified number of hours of experience involving the practice of substance abuse treatment supervised by a licensed substance abuse treatment practitioner, or by another person with substantially equivalent education, training and experience, *such number of hours being greater than the number of hours required of a certified substance abuse counseling assistant*. The applicant shall also pass an examination, as required by the Board.

*§ 54.1-3507.1. Scope of practice of and qualifications for certified substance abuse counselors.*

A. A certified substance abuse counselor shall be (i) qualified to perform, under appropriate supervision or direction, the substance abuse treatment functions of screening, intake, orientation, assessment, treatment planning, treatment, case management, substance abuse or dependence crisis intervention, client education, referral activities, record keeping, and consultation with other professionals; and (ii) qualified to supervise, direct and instruct certified substance abuse counseling assistants; such counselor shall also be clinically supervised or directed by a licensed substance abuse practitioner, or by another person with substantially equivalent education, training and experience, or such counselor shall be in compliance with the supervision requirements of a licensed facility. Certified substance abuse counselors shall not engage in independent or autonomous practice.

B. Pursuant to regulations adopted by the Board, an applicant for certification as a substance abuse counselor shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified number of hours of didactic substance abuse education courses in a program or programs recognized or approved by the Board and received a bachelor's degree from a college or university accredited by an accredited agency recognized by the Board; and (ii) accumulated a specified number of hours of experience involving the practice of substance abuse treatment while supervised by a licensed substance abuse treatment practitioner, or by another person with substantially equivalent education, training and experience, *such number of hours being greater than the number of hours required of a certified substance abuse counseling assistant*. The applicant shall also pass an examination as required by the Board.

*§54.1-3507.2. Scope of practice of and qualifications for certified substance abuse counseling assistants.*

A. A certified substance abuse counseling assistant shall be qualified to perform, under appropriate supervision or direction, the substance abuse treatment functions of orientation, implementation of treatment plans, case management, substance abuse or dependence crisis intervention, record keeping, consultation with other professionals, and other functions deemed appropriate by the supervisor to improve the outcome of an individual's care; also, such certified substance abuse counseling assistant shall be supervised or directed either by a licensed substance abuse treatment practitioner, or by another person licensed under this title with substantially equivalent education training or experience, or by a certified substance abuse counselor, or such counseling assistant shall be in compliance with the supervision requirements of a licensed facility. Certified substance abuse counseling assistants may participate in recovery group discussions, but may not engage in counseling with either individuals or groups or engage in independent or autonomous practice.

B. Pursuant to regulations adopted by the Board, an applicant for certification as a certified substance abuse counseling assistant shall submit evidence satisfactory to the Board that the applicant has (i) received a high school diploma or its equivalent, (ii) completed a specified number of hours of didactic substance abuse education in a program or programs recognized or approved by the Board, and (iii) accumulated a specified number of hours of experience and completed a practicum or an internship involving substance abuse treatment, supervised either by a licensed substance abuse treatment practitioner, or by another person licensed under this title with substantially equivalent education, training and experience, or by a certified substance abuse counselor. The applicant shall also pass an examination, as required by the Board.

*§ 54.1-3507.3. Use of titles.*

No person shall claim to be, or use the title of, a substance abuse treatment practitioner, a substance abuse counselor, or a substance abuse counseling assistant unless he has been licensed or certified as such pursuant to § 54.1-3507, 54.1-3507.1 or 54.1-3507.2.

*§54.1-3509. Continued certification of certain certified substance abuse counselors.*

On and after July 1, 2001, unless such certification is suspended or revoked by the Board, the Board shall continue to certify as a certified substance abuse counselor any person (i) who was certified by the

551 *Board as a certified substance abuse counselor prior to July 1, 2001, or (ii) who registered his*  
552 *supervisory contract with the Board or filed an application with the Board prior to July 1, 2001, for*  
553 *certification as a certified substance abuse counselor and was certified by the Board after July 1, 2001.*  
554 *The person's scope of practice shall be limited to that set forth in subsection A of § 54.1-3507.1.*

555 **2. That no certification or license shall be required for the practice of substance abuse treatment**  
556 **as provided herein until six months after the effective date of regulations governing certified**  
557 **substance abuse counselors and certified substance abuse counseling assistants as promulgated by**  
558 **the Board under subdivision 7 of § 54.1-3505.**

559 **3. That, notwithstanding the provisions of this act, the Board shall certify as a certified substance**  
560 **abuse counselor any person who, before July 1, 2001, has registered his supervisory contract with**  
561 **the Board or has filed an application with the Board for certification as a certified substance**  
562 **abuse counselor provided that such person meets the certification requirements for a certified**  
563 **substance abuse counselor in effect prior to July 1, 2001.**

564 **4. That, notwithstanding the provisions of this act, the Board shall certify as a certified substance**  
565 **abuse counselor any person who files an application with the Board after July 1, 2001, but before**  
566 **the effective date of the new certification regulations to be promulgated by the Board pursuant to**  
567 **§ 54.1-3505 if such person meets the certification requirements for certified substance abuse**  
568 **counselors in effect prior to July 1, 2001. Unless such certification later is suspended or revoked**  
569 **by the Board, such certification shall remain in effect until the effective date of the new**  
570 **certification regulations to be promulgated by the Board pursuant to § 54.1-3505, at which time**  
571 **the person shall be deemed to hold certification at the appropriate level under § 54.1-3507.1 or**  
572 **54.1-3507.2, as determined by the Board.**