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SENATE BILL NO. 504

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend the Code of Virginia by adding in Title 51.5 a chapter numbered 4.1, consisting of sections numbered 51.5-14.1 through 51.5-14.6, relating to licensure of providers of services.

Patron—Bolling

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 51.5 a chapter numbered 4.1, consisting of sections numbered 51.5-14.1 through 51.5-14.6, as follows:

CHAPTER 4.1.**LICENSING PERSONS PROVIDING SERVICES.**

§ 51.5-14.1. Authority of the Commissioner to grant licenses.

The Commissioner may license any suitable person to establish, maintain, and operate services funded through waivers in the State Plan for Medical Assistance that are not licensed by the Departments of Social Services or Mental Health, Mental Retardation and Substance Abuse Services. The Commissioner shall adopt regulations to carry out the provisions of this chapter and to protect the health, safety, welfare and individual rights of persons with developmental disabilities and other physical and sensory disabilities.

§ 51.5-14.2. Inspections.

All services provided or delivered under any license shall be subject to review or inspection at any reasonable time by any authorized inspector or agent of the Department. The Commissioner or his authorized agents shall inspect all such licensed providers and shall have access at all reasonable times to all services and records, including medical records. Records that are confidential under federal or state law shall be maintained as confidential by the Department and shall not be further disclosed except as permitted by law; however, there shall be no right of access to communications that are privileged pursuant to § 8.01-581.17. The Commissioner shall call upon other state or local departments to assist in the inspections and such departments shall render an inspection report to the Commissioner. After receipt of all inspection reports, the Commissioner shall make the final determination with respect to the condition of the service so reviewed or inspected. The Commissioner or his authorized agent shall make at least one annual unannounced inspection of each service offered by each licensed provider. The Commissioner shall promptly investigate all complaints.

§ 51.5-14.2. License required; expiration of license; renewal; license fees.

Every person who establishes, maintains or operates in this Commonwealth any services funded through waivers in the State Plan for Medical Assistance, not licensed by the Departments of Social Services or Mental Health, Mental Retardation and Substance Abuse Services, shall obtain the appropriate license from the Commissioner. The Commissioner or his representative, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Licenses shall be issued on forms prescribed by the Commissioner. Licenses may be issued for periods up to three successive years from the date of issuance and may be renewed by the Commissioner. The Commissioner may fix a reasonable fee for each license so issued, and for any renewal thereof. All funds received by the Department under this chapter shall be paid into the general fund in the state treasury. No license issued under this chapter shall be assignable or transferable.

§51.5-14.3. Revocation, suspension or refusal of licenses.

A. The Commissioner is authorized to revoke or suspend any license issued hereunder, or refuse issuance of a license, on any of the following grounds: (1) violation of any provision of this chapter or any applicable and valid regulation made pursuant to such provisions; (2) permitting, aiding or abetting the commission of an illegal act; or (3) conduct or practices detrimental to the welfare of persons with developmental disabilities and other physical and sensory disabilities. Whenever the Commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply.

B. If a license is revoked or refused, a new application for license may be considered by the Commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the Commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the Commissioner in his sole discretion believes that

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59 *there has been such a change in the conditions causing refusal of the prior application or revocation of*
60 *the license as to justify considering the new application. When an appeal is taken by the applicant*
61 *pursuant to § 51.5-14.4, the six-month period shall be extended until a final decision has been rendered*
62 *on appeal. A new license may then be granted after proper inspection has been made and all provisions*
63 *of this chapter and applicable regulations made thereunder have been complied with.*

64 *C. Suspension of a license shall in all cases be for an indefinite time and the suspension may be*
65 *lifted and rights under the license fully or partially restored at such time as the Commissioner*
66 *determines, upon basis of an inspection, that the interests of the public will not be jeopardized by*
67 *resumption of the operation.*

68 *§ 51.4-14.4. Review of Commissioner's refusal, revocation, suspension of license.*

69 *Any person aggrieved by the final decision of the Commissioner to refuse to issue a license or by his*
70 *revocation or suspension of a license is entitled to judicial review in accordance with the provisions of*
71 *the Administrative Process Act (§ 2.2-4000 et seq.). Any party to the proceeding may appeal from the*
72 *decision of the court to the Court of Appeals.*

73 *§ 51.4-14.5. Enforcement and sanctions.*

74 *The Commissioner shall adopt regulations to use in determining when the imposition of*
75 *administrative sanctions or initiation of court proceedings are appropriate in order to ensure prompt*
76 *correction of violations involving noncompliance with state law or regulation. The Commissioner may*
77 *impose such sanctions or take such actions as are appropriate for violations of any of the provisions of*
78 *this article that adversely impact the health, safety or welfare of persons with developmental disabilities*
79 *and other physical and sensory disabilities.*