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HOUSE BILL NO. 351

Offered January 11, 2006

Prefiled January 6, 2006

A *BILL to amend and reenact §§ 54.1-113 and 54.1-2505 of the Code of Virginia, relating to prohibition of certain transfers of moneys collected on behalf of health regulatory boards.*

Patrons—Hamilton and O'Bannon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-113 and 54.1-2505 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-113. Regulatory boards to adjust fees; certain transfer of moneys collected on behalf of health regulatory boards prohibited.

A. Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

B. *Nongeneral funds generated by fees collected on behalf of the health regulatory boards and accounted for and deposited into a special fund by the Director of the Department of Health Professions shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Intervention Program, and the Department and Board of Health Professions and shall not be transferred to any agency other than the Department of Health Professions.*

§ 54.1-2505. Powers and duties of Director of Department.

The Director of the Department shall have the following powers and duties:

1. To supervise and manage the Department;
2. To perform or consolidate such administrative services or functions as may assist the operation of the boards;

3. To prepare, approve and submit to the Governor, after consultation with the boards, all requests for appropriations and be responsible for all expenditures pursuant to appropriations;

4. To provide such office facilities as will allow the boards to carry out their duties;

5. To employ personnel as required for the proper performance of the responsibilities of the Department subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 within the limits of appropriations made by law;

6. To receive all complaints made against regulated health care professionals;

7. To develop administrative policies and procedures governing the receipt and recording of complaints;

8. To monitor the status of actions taken under the auspices of the boards regarding complaints until the closure of each case;

9. To provide investigative and such other services as needed by the boards to enforce their respective statutes and regulations;

10. To provide staff to assist in the performance of the duties of the Board of Health Professions;

11. To collect and account for all fees to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the *health* regulatory boards, the Health Practitioners' Intervention Program, and the Department and Board of Health Professions shall be paid. *Such fees shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Intervention Program, and the Department and Board of Health Professions and shall not be transferred to any agency other than the Department of Health Professions;*

12. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including, but not limited to, contracts with the United States, other states, agencies and governmental subdivisions of the Commonwealth;

13. To accept grants from the United States government, its agencies and instrumentalities, and any other source. The Director shall have the power to comply with conditions and execute agreements as may be necessary, convenient or desirable;

14. To promulgate and revise regulations necessary for the administration of the Department and such regulations as are necessary for the implementation of the Health Practitioners' Intervention Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of this title and subdivision 19 of this section;

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HB351

- 59 15. To report promptly, after consultation with the presiding officer of the appropriate health
60 regulatory board or his designee, to the Attorney General or the appropriate attorney for the
61 Commonwealth any information the Department obtains which, upon appropriate investigation, indicates,
62 in the judgment of the Director, that a person licensed by any of the health regulatory boards has
63 violated any provision of criminal law, including the laws relating to manufacturing, distributing,
64 dispensing, prescribing or administering drugs other than drugs classified as Schedule VI drugs. When
65 necessary, the Attorney General or the attorney for the Commonwealth shall request that the Department
66 of Health Professions or the Department of State Police conduct any subsequent investigation of such
67 report. Upon request and affidavit from an attorney for the Commonwealth, the Director shall provide
68 documents material to a criminal investigation of a person licensed by a health regulatory board;
69 however, peer review documents shall not be released and shall remain privileged pursuant to
70 § 8.01-581.17. For the purpose of this section, the terms manufacturing, distributing, dispensing,
71 prescribing or administering drugs shall not include minor administrative or clerical errors which do not
72 affect the inventory of drugs required by Chapter 34 (§ 54.1-3400 et seq.) of this title and do not
73 indicate a pattern of criminal behavior;
- 74 16. To keep records of the names and qualifications of registered, certified or licensed persons;
- 75 17. To exercise other powers and perform other duties required of the Director by the Governor;
- 76 18. To issue subpoenas in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) for
77 any informal fact finding or formal proceeding within the jurisdiction of the Department or any
78 regulatory board;
- 79 19. To establish, and revise as necessary, a comprehensive health practitioners' intervention program
80 pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of this title;
- 81 20. To establish, and revise as necessary, with such federal funds, grants, or general funds as may be
82 appropriated or made available for this program, the Prescription Monitoring Program pursuant to
83 Chapter 25.2 (§ 54.1-2519 et seq.) of this title; and
- 84 21. To assess a civil penalty against any person who is not licensed by a health regulatory board for
85 failing to report a violation pursuant to § 54.1-2400.6 or § 54.1-2909.