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## HOUSE BILL NO. 1222

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Bowling  
on January 25, 2008)

(Patron Prior to Substitute—Delegate Bowling)

A BILL to amend and reenact §§ 54.1-2901, 54.1-3001, 54.1-3202, 54.1-3301, and 54.1-3801 of the Code of Virginia, relating to charitable medical events.

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

**1. That §§ 54.1-2901, 54.1-3001, 54.1-3202, 54.1-3301, and 54.1-3801 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary license or certification by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any

60 site any health care services within the limits of his license, voluntarily and without compensation, to  
61 any patient of any clinic which is organized in whole or in part for the delivery of health care services  
62 without charge as provided in § 54.1-106.

63 17. The performance of the duties of any commissioned or contract medical officer, or podiatrist in  
64 active service in the army, navy, coast guard, marine corps, air force, or public health service of the  
65 United States while such individual is so commissioned or serving;

66 18. Any masseur, who publicly represents himself as such, from performing services within the scope  
67 of his usual professional activities and in conformance with state law;

68 19. Any person from performing services in the lawful conduct of his particular profession or  
69 business under state law;

70 20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

71 21. Qualified emergency medical services personnel, when acting within the scope of their  
72 certification, and licensed health care practitioners, when acting within their scope of practice, from  
73 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of  
74 Health regulations, or licensed health care practitioners from following any other written order of a  
75 physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

76 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force  
77 rendering services voluntarily and without compensation while deemed to be licensed pursuant to  
78 § 54.1-106;

79 23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture  
80 detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent  
81 certifying body, from administering auricular acupuncture treatment under the appropriate supervision of  
82 a National Acupuncture Detoxification Association certified physician or licensed acupuncturist;

83 24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation  
84 (CPR) acting in compliance with the patient's individualized service plan and with the written order of  
85 the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

86 25. Any person working as a health assistant under the direction of a licensed medical or osteopathic  
87 doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional  
88 facilities;

89 26. Any employee of a school board, authorized by a prescriber and trained in the administration of  
90 insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents  
91 as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a  
92 student diagnosed as having diabetes and who requires insulin injections during the school day or for  
93 whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

94 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering  
95 free health care to an underserved population of Virginia who (i) does not regularly practice his  
96 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another  
97 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to  
98 an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer,  
99 nonprofit organization with no paid employees that sponsors the provision of health care to populations  
100 of underserved people throughout the world, (iv) files a copy of the license or certification issued in  
101 such other jurisdiction with the Board, (v) notifies the Board at least ~~15~~five business days prior to the  
102 voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in  
103 writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations,  
104 during the limited period that such free health care is made available through the volunteer, nonprofit  
105 organization on the dates and at the location filed with the Board. The Board may deny the right to  
106 practice in Virginia to any practitioner of the healing arts whose license or certificate has been  
107 previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be  
108 in violation of applicable laws or regulations. *However, the board shall allow a practitioner of the*  
109 *healing arts who meets the above criteria to provide volunteer services without prior notice for a period*  
110 *of up to three days, provided the nonprofit organization verifies that the practitioner has a valid,*  
111 *unrestricted license in another state;*

112 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens  
113 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as  
114 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division  
115 of Consolidated Laboratories or other public health laboratories, designated by the State Health  
116 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in  
117 § 32.1-49.1;

118 29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered  
119 nurse under his supervision the screening and testing of children for elevated blood-lead levels when  
120 such testing is conducted (i) in accordance with a written protocol between the physician or nurse  
121 practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations

promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing; or

31. Any licensed nurse practitioner in the category of certified nurse midwife from rendering care in collaboration and consultation with a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing.

B. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife may practice without the requirement for physician supervision while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

§ 54.1-3001. Exemptions.

This chapter shall not apply to the following:

1. The furnishing of nursing assistance in an emergency;

2. The practice of nursing, which is prescribed as part of a study program, by nursing students enrolled in nursing education programs approved by the Board or by graduates of approved nursing education programs for a period not to exceed ninety days following successful completion of the nursing education program pending the results of the licensing examination, provided proper application and fee for licensure have been submitted to the Board and unless the graduate fails the licensing examination within the ninety-day period;

3. The practice of any legally qualified nurse of another state who is employed by the United States government while in the discharge of his official duties;

4. The practice of nursing by a nurse who holds a current unrestricted license in another state, the District of Columbia, a United States possession or territory, or who holds a current unrestricted license in Canada and whose training was obtained in a nursing school in Canada where English was the primary language, for a period of thirty days pending licensure in Virginia, if the nurse, upon employment, has furnished the employer satisfactory evidence of current licensure and submits proper application and fees to the Board for licensure before, or within ten days after, employment. At the discretion of the Board, additional time may be allowed for nurses currently licensed in another state, the District of Columbia, a United States possession or territory, or Canada who are in the process of attaining the qualification for licensure in this Commonwealth;

5. The practice of nursing by any registered nurse who holds a current unrestricted license in another state, the District of Columbia, or a United States possession or territory, or a nurse who holds an equivalent credential in a foreign country, while enrolled in an advanced professional nursing program requiring clinical practice. This exemption extends only to clinical practice required by the curriculum;

6. The practice of nursing by any nurse who holds a current unrestricted license in another state, the District of Columbia, or a United States possession or territory and is employed to provide care to any private individual while such private individual is traveling through or temporarily staying, as defined in the Board's regulations, in the Commonwealth;

7. General care of the sick by nursing assistants, companions or domestic servants that does not constitute the practice of nursing as defined in this chapter;

8. The care of the sick when done solely in connection with the practice of religious beliefs by the adherents and which is not held out to the public to be licensed practical or professional nursing;

9. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administering 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;

10. The practice of nursing by any nurse who is a graduate of a foreign nursing school and has met the credential, language, and academic testing requirements of the Commission on Graduates of Foreign Nursing Schools for a period not to exceed ninety days from the date of approval of an application submitted to the Board when such nurse is working as a nonsupervisory staff nurse in a licensed nursing home or certified nursing facility. During such ninety-day period, such nurse shall take and pass the licensing examination to remain eligible to practice nursing in Virginia; no exemption granted under this subdivision shall be extended; or

11. The practice of nursing by any nurse rendering free health care to an underserved population in Virginia who (i) does not regularly practice nursing in Virginia, (ii) holds a current valid license or certification to practice nursing in another state, territory, district or possession of the United States, (iii)

183 volunteers to provide free health care to an underserved area of this Commonwealth under the auspices  
184 of a publicly supported all volunteer, nonprofit organization ~~with no paid employees~~ that sponsors the  
185 provision of health care to populations of underserved people ~~throughout the world~~, (iv) files a copy of  
186 the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least  
187 ~~fifteen~~ *five business* days prior to the voluntary provision of services of the dates and location of such  
188 service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in  
189 compliance with the Board's regulations, during the limited period that such free health care is made  
190 available through the volunteer, nonprofit organization on the dates and at the location filed with the  
191 Board. The Board may deny the right to practice in Virginia to any nurse whose license or certificate  
192 has been previously suspended or revoked, who has been convicted of a felony or who is otherwise  
193 found to be in violation of applicable laws or regulations. *However, the board shall allow a nurse who*  
194 *meets the above criteria to provide volunteer services without prior notice for a period of up to three*  
195 *days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license*  
196 *in another state.*

197 § 54.1-3202. Exemptions.

198 This chapter shall not apply to:

199 1. Physicians licensed to practice medicine by the Board of Medicine or to prohibit the sale of  
200 nonprescription eyeglasses and sunglasses. Contact lenses shall not be sold as merchandise from a retail  
201 business other than one operated by a physician, an optometrist or an optician; or

202 2. Any optometrist rendering free health care to an underserved population in Virginia who (i) does  
203 not regularly practice optometry in Virginia, (ii) holds a current valid license or certificate to practice  
204 optometry in another state, territory, district or possession of the United States, (iii) volunteers to  
205 provide free health care in an underserved area of this Commonwealth under the auspices of a publicly  
206 supported all volunteer, nonprofit organization ~~with no paid employees~~ that sponsors the provision of  
207 health care to populations of underserved people ~~throughout the world~~, (iv) files a copy of his license or  
208 certification in such other jurisdiction with the Board, (v) notifies the Board at least ~~fifteen~~ *five business*  
209 days prior to the voluntary provision of services of the dates and location of such service, and (vi)  
210 acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the  
211 Board's regulations, during the limited period that such free health care is made available through the  
212 volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may  
213 deny the right to practice in Virginia to any optometrist whose license or certificate has been previously  
214 suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation  
215 of applicable laws or regulations. *However, the board shall allow an optometrist who meets the above*  
216 *criteria to provide volunteer services without prior notice for a period of up to three days, provided the*  
217 *nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.*

218 § 54.1-3301. Exceptions.

219 This chapter shall not be construed to:

220 1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any  
221 physician acting on behalf of the Virginia Department of Health or local health departments, in the  
222 compounding of his prescriptions or the purchase and possession of drugs as he may require;

223 2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as  
224 defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health  
225 departments, from administering or supplying to his patients the medicines that he deems proper under  
226 the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to  
227 §§ 32.1-42.1 and 54.1-3408;

228 3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34  
229 (§ 54.1-3400 et seq.) of this title;

230 4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34  
231 (§ 54.1-3400 et seq.) of this title;

232 5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the  
233 regulations of the Board;

234 6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from  
235 purchasing, possessing or administering controlled substances to his own patients or providing controlled  
236 substances to his own patients in a bona fide medical emergency or providing manufacturers'  
237 professional samples to his own patients;

238 7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic  
239 pharmaceutical agents, from purchasing, possessing or administering those controlled substances as  
240 specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to  
241 prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own  
242 patients those controlled substances as specified in § 54.1-3222 and the TPA formulary or providing  
243 manufacturers' samples of these drugs to his own patients;

244 8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his

own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice setting and a written agreement with a physician or podiatrist;

9. Interfere with any licensed nurse practitioner with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to prescribe according to his practice setting and a written agreement with a physician;

10. Interfere with any legally qualified practitioner of medicine or osteopathy participating in an indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in the program shall not use the donated drug for any purpose other than dispensing to the patient for whom it was originally donated, except as authorized by the donating manufacturer for another patient meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent patient program pursuant to this subdivision. A participating pharmacy may charge a reasonable dispensing or administrative fee to offset the cost of dispensing, not to exceed the comparable allowable fee reimbursed by the Virginia Medicaid program. However, if the patient is unable to pay such fee, the dispensing or administrative fee shall be waived;

11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing controlled substances to his own patients in a free clinic without charge when such controlled substances are donated by an entity other than a pharmaceutical manufacturer as authorized by subdivision 10. The practitioner shall first obtain a controlled substances registration from the Board and shall comply with the labeling and packaging requirements of this chapter and the Board's regulations; or

12. Prevent any pharmacist from providing free health care to an underserved population in Virginia who (i) does not regularly practice pharmacy in Virginia, (ii) holds a current valid license or certificate to practice pharmacy in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least ~~15~~*five business* days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any pharmacist whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. *However, the board shall allow a pharmacist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.*

This section shall not be construed as exempting any person from the licensure, registration, permitting and record keeping requirements of this chapter or Chapter 34 of this title.

§ 54.1-3801. Exceptions.

This chapter shall not apply to:

1. The owner of an animal and the owner's full-time, regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing the requirements of this chapter;

2. Veterinarians licensed in other states called in actual consultation or to attend a case in this Commonwealth who do not open an office or appoint a place to practice within this Commonwealth;

3. Veterinarians employed by the United States or by this Commonwealth while actually engaged in the performance of their official duties; or

4. Veterinarians providing free care in underserved areas of Virginia who (i) do not regularly practice veterinary medicine in Virginia, (ii) hold a current valid license or certificate to practice veterinary medicine in another state, territory, district or possession of the United States, (iii) volunteer to provide

306 free care in an underserved area of this Commonwealth under the auspices of a publicly supported all  
307 volunteer, nonprofit organization ~~with no paid employees~~ that sponsors the provision of health care to  
308 populations of underserved people ~~throughout the world~~, (iv) file copies of their licenses or certificates  
309 issued in such other jurisdiction with the Board, (v) notify the Board at least ~~fifteen~~ *five business* days  
310 prior to the voluntary provision of services of the dates and location of such service, and (vi)  
311 acknowledge, in writing, that such licensure exemption shall only be valid, in compliance with the  
312 Board's regulations, during the limited period that such free health care is made available through the  
313 volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may  
314 deny the right to practice in Virginia to any veterinarian whose license has been previously suspended or  
315 revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable  
316 laws or regulations. *However, the board shall allow a veterinarian who meets the above criteria to*  
317 *provide volunteer services without prior notice for a period of up to three days, provided the nonprofit*  
318 *organization verifies that the practitioner has a valid, unrestricted license in another state.*