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SENATE BILL NO. 263

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 13.1-543, 13.1-1102, 22.1-270, 32.1-11.5, 32.1-134.2, 54.1-2701, 54.1-2901, 54.1-2914, 54.1-3000, 54.1-3001, 54.1-3301, 54.1-3303, 54.1-3401, 54.1-3408, and 63.2-2203 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 30 of Title 54.1 an article numbered 8, consisting of sections numbered 54.1-3044 through 54.1-3048; and to repeal §§ 54.1-2957, 54.1-2957.01, 54.1-2957.02, and 54.1-2957.03 of the Code of Virginia, relating to licensure of nurse practitioners.

Patrons—Whipple; Delegate: Landes

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-543, 13.1-1102, 22.1-270, 32.1-11.5, 32.1-134.2, 54.1-2701, 54.1-2901, 54.1-2914, 54.1-3000, 54.1-3001, 54.1-3301, 54.1-3303, 54.1-3401, 54.1-3408, and 63.2-2203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 30 of Title 54.1 an article numbered 8, consisting of sections numbered 54.1-3044 through 54.1-3048, as follows:

§ 13.1-543. Definitions.

A. As used in this chapter:

"Eligible employee stock ownership plan" means an employee stock ownership plan as such term is defined in § 4975(e) (7) of the Internal Revenue Code of 1986, as amended, sponsored by a professional corporation and with respect to which:

1. All of the trustees of the employee stock ownership plan are individuals who are duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter; however, if a conflict of interest exists for one or more trustees with respect to a specific issue or transaction, such trustees may appoint a special independent trustee or special fiduciary, who is not duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, which special independent trustee shall be authorized to make decisions only with respect to the specific issue or transaction that is the subject of the conflict;

2. The employee stock ownership plan provides that no shares, fractional shares, or rights or options to purchase shares of the professional corporation shall at any time be issued, sold, or otherwise transferred directly to anyone other than an individual duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, unless such shares are transferred as a plan distribution to a plan beneficiary and subject to immediate repurchase by the professional corporation, the employee stock ownership plan or another person authorized to hold such shares; however:

a. With respect to a professional corporation rendering the professional services of public accounting or certified public accounting:

(1) The employee stock ownership plan may permit individuals who are not duly licensed or otherwise legally authorized to render these services to participate in such plan, provided such individuals are employees of the corporation and hold less than a majority of the beneficial interests in such plan; and

(2) At least 51% percent of the total of allocated and unallocated equity interests in the corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in § 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate separate from any interests held by such employee stock ownership plan; and

b. With respect to a professional corporation rendering the professional services of architects, professional engineers, land surveyors, landscape architects, or certified interior designers, the employee stock ownership plan may permit individuals who are not duly licensed to render the services of architects, professional engineers, land surveyors, or landscape architects, or individuals legally authorized to use the title of certified interior designers to participate in such plan, provided such individuals are employees of the corporation and together hold not more than one-third of the beneficial interests in such plan, and that the total of the shares (i) held by individuals who are employees but not

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59 duly licensed to render such services or legally authorized to use a title and (ii) held by the trustees of
60 such employee stock ownership plan for the benefit of individuals who are employees but not duly
61 licensed to render such services or legally authorized to use a title, shall not exceed one-third of the
62 shares of the corporation; and

63 3. The professional corporation, the trustees of the employee stock ownership plan, and the other
64 shareholders of the professional corporation comply with the foregoing provisions of the plan.

65 "Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or
66 otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under
67 whose laws the entity is formed to render the same professional service as that for which a professional
68 corporation or professional limited liability company may be organized, including, but not limited to, (i)
69 a professional limited liability company as defined in § 13.1-1102, (ii) a professional corporation as
70 defined in this subsection, or (iii) a partnership that is registered as a registered limited liability
71 partnership registered under § 50-73.132, all of the partners of which are duly licensed or otherwise
72 legally authorized to render the same professional services as those for which the partnership was
73 organized.

74 "Professional corporation" means a corporation whose articles of incorporation set forth a sole and
75 specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole
76 and specific purpose of rendering professional service other than that of architects, professional
77 engineers, land surveyors, or landscape architects, or using a title other than that of certified interior
78 designers and, except as expressly otherwise permitted by this chapter, that has as its shareholders or
79 members only individuals or professional business entities that are duly licensed or otherwise legally
80 authorized to render the same professional service as the corporation, including the trustees of an
81 eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific
82 purpose of rendering the professional services of architects, professional engineers, land surveyors, or
83 landscape architects, or using the title of certified interior designers, or any combination thereof, and at
84 least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform
85 the services of an architect, professional engineer, land surveyor, or landscape architect, including the
86 trustees of an eligible employee stock ownership plan, or by persons legally authorized within the
87 Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter or
88 under Chapter 10 (§ 13.1-801 et seq.) of this title for the sole and specific purpose of rendering the
89 professional services of one or more practitioners of the healing arts, licensed under the provisions of
90 Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under
91 Chapter 29 (~~§ 54.1-2900 et seq.~~) 30 (§ 54.1-3000 et seq.) of Title 54.1, or one or more optometrists
92 licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical
93 therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et
94 seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the
95 provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of
96 Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions
97 of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render
98 mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with
99 the Board of Nursing, or any combination of practitioners of the healing arts, optometry, physical
100 therapy, the behavioral science professions, and audiology or speech pathology, and all of whose shares
101 are held by or all of whose members are individuals or professional business entities duly licensed or
102 otherwise legally authorized to perform the services of a practitioner of the healing arts, nurse
103 practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech
104 pathology or of a clinical nurse specialist who renders mental health services, including the trustees of
105 an eligible employee stock ownership plan; however, nothing herein shall be construed so as to allow
106 any member of the healing arts, optometry, physical therapy, the behavioral science professions,
107 audiology or speech pathology or a nurse practitioner or clinical nurse specialist to conduct his practice
108 in a manner contrary to the standards of ethics of his branch of the healing arts, optometry, physical
109 therapy, the behavioral science professions, audiology or speech pathology, or nursing, as the case may
110 be.

111 "Professional service" means any type of personal service to the public that requires as a condition
112 precedent to the rendering of such service or use of such title the obtaining of a license, certification, or
113 other legal authorization and shall be limited to the personal services rendered by pharmacists,
114 optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse
115 practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists,
116 architects, professional engineers, land surveyors, landscape architects, certified interior designers, public
117 accountants, certified public accountants, attorneys-at-law, insurance consultants, audiologists or speech
118 pathologists, and clinical nurse specialists. For the purposes of this chapter, the following shall be
119 deemed to be rendering the same professional service:

120 1. Architects, professional engineers, and land surveyors; and

2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; nurse practitioners, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) 30 (§ 54.1-3000 et seq.) of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1; practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1; and one or more clinical nurse specialists who render mental health services, licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical college or university that is an "educational institution" within the meaning of § 23-14.

§ 13.1-1102. Definitions.

A. As used in this chapter:

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in this subsection, (ii) a professional corporation as defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional limited liability company" means a limited liability company whose articles of organization set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the professional limited liability company or (ii) organized under this chapter for the sole and specific purpose of rendering professional service of architects, professional engineers, land surveyors, or landscape architects or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose membership interests are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect, or by persons legally authorized within the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) 30 (§ 54.1-3000 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, of optometry, physical therapy, the behavioral science professions, and audiology or speech pathology and all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, nurse practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or of a clinical nurse specialist who renders mental health services; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or a nurse practitioner or clinical nurse specialist to conduct that person's practice in a manner contrary to the standards of ethics of that person's branch of the healing arts, optometry, physical therapy, the behavioral science professions, or audiology or speech pathology, or nursing as the case may be.

"Professional services" means any type of personal service to the public that requires as a condition precedent to the rendering of that service or the use of that title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists,

182 optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse
183 practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists,
184 architects, professional engineers, land surveyors, landscape architects, certified interior designers, public
185 accountants, certified public accountants, attorneys at law, insurance consultants, audiologists or speech
186 pathologists and clinical nurse specialists. For the purposes of this chapter, the following shall be
187 deemed to be rendering the same professional services:

188 1. Architects, professional engineers, and land surveyors; and

189 2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.)
190 of Title 54.1, nurse practitioners, licensed under Chapter 29 (~~§ 54.1-2900 et seq.~~) 30 (§ 54.1-3000 et
191 seq.) of Title 54.1, optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of
192 Title 54.1, physical therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of
193 Title 54.1, practitioners of the behavioral science professions, licensed under the provisions of Chapters
194 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1, and clinical
195 nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of
196 Title 54.1 and registered with the Board of Nursing.

197 B. Persons who practice the healing art of performing professional clinical laboratory services within
198 a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such
199 persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical
200 laboratory sciences and (ii) are tenured faculty members of an accredited medical college or university
201 that is an "educational institution" within the meaning of § 23-14.

202 C. Except as expressly otherwise provided, all terms defined in § 13.1-1002 shall have the same
203 meanings for purposes of this chapter.

204 § 22.1-270. Preschool physical examinations.

205 A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a
206 school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed
207 physician, ~~or a licensed nurse practitioner,~~ or licensed physician assistant acting under the supervision of
208 a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health
209 Commissioner performed within the 12 months prior to the date such pupil first enters such public
210 kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon
211 prior admission to another school or school division and providing the information contained in such
212 report.

213 If the pupil is a homeless child or youth as defined in § 22.1-3, and for that reason cannot furnish
214 the report or records required by (i) or (ii) of this subsection, and the person seeking to enroll the pupil
215 furnishes to the school division an affidavit so stating and also indicating that, to the best of his
216 knowledge, such pupil is in good health and free from any communicable or contagious disease, the
217 school division shall immediately refer the student to the local school division liaison, as described in
218 the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended
219 (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary
220 physical examination by the county or city health department or other clinic or physician's office and
221 shall immediately admit the pupil to school, as required by such Act.

222 B. The physician, ~~or licensed nurse practitioner,~~ or licensed physician assistant acting under the
223 supervision of a licensed physician, making a report of a physical examination required by this section
224 shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically
225 state what, if any, conditions are found that would identify the child as handicapped.

226 C. Such physical examination report shall be placed in the child's health record at the school and
227 shall be made available for review by any employee or official of the State Department of Health or any
228 local health department at the request of such employee or official.

229 D. Such physical examination shall not be required of any child whose parent shall object on
230 religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in
231 writing that, to the best of his knowledge, such child is in good health and free from any communicable
232 or contagious disease.

233 E. The health departments of all of the counties and cities of the Commonwealth shall conduct such
234 physical examinations for medically indigent children without charge upon request and may provide
235 such examinations to others on such uniform basis as such departments may establish.

236 F. Parents of entering students shall complete a health information form which shall be distributed by
237 the local school divisions. Such forms shall be developed and provided jointly by the Department of
238 Education and Department of Health, or developed and provided by the school division and approved by
239 the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless
240 reasonable extensions have been granted by the superintendent or his designee. Upon failure of the
241 parent to complete such form within the extended time, the superintendent may send to the parent
242 written notice of the date he intends to exclude the child from school; however, no child who is a
243 homeless child or youth as defined in subdivision 6 of § 22.1-3 shall be excluded from school for such

failure to complete such form.

§ 32.1-11.5. Pilot programs for obstetrical and pediatric care in underserved areas.

A. The Board may approve pilot programs to improve access to (i) obstetrical care, which for the purposes of this section includes prenatal, delivery, and post-partum care; and (ii) pediatric care in areas of the Commonwealth where these services are severely limited. The proposals for such pilot programs shall be jointly developed and submitted to the Board by nurse practitioners licensed in the category of certified nurse midwife, certain perinatal centers as determined by the Board, obstetricians, family physicians, and pediatricians.

B. Nurse practitioners licensed by the ~~Boards of Medicine and~~ Board of Nursing in the category of certified nurse midwife who participate in a pilot program shall associate with perinatal centers recommended by the Board and community obstetricians, family physicians, and pediatricians and, notwithstanding any provision of law or regulation to the contrary, shall not be required to have physician supervision to provide obstetrical services to women with low-risk pregnancies who consent to receive care under the pilot program arrangements. Further, notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the ~~Boards of Medicine and~~ Board of Nursing in the category of certified nurse midwife holding a license for prescriptive authority may prescribe Schedules III through VI controlled substances ~~without the requirement for either medical direction or supervision or a written agreement between the licensed nurse practitioner and a licensed physician.~~ Such perinatal center shall provide administrative oversight by (i) assisting in the development of appropriate clinical care protocols and clinical collaboration, (ii) accepting transfers when necessary, and (iii) providing clinical consultation when requested. ~~Removal of the requirement for physician supervision for participating nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall not extend beyond the pilot programs or be granted to certified nurse midwives who do not participate in approved pilot programs. Further, the removal of the requirement of physician supervision shall not authorize nurse~~ Nurse practitioners licensed by the ~~Boards of Medicine and~~ Board of Nursing in the category of certified nurse midwife ~~shall not be authorized to~~ provide care to women with high-risk pregnancies or care that is not directly related to a low-risk pregnancy and delivery. Nurse practitioners licensed by the ~~Boards of Medicine and~~ Board of Nursing in the category of certified nurse midwife participating in a pilot program shall maintain professional liability insurance as recommended by the Division of Risk Management of the Department of the Treasury.

C. The Department shall convene stakeholders, including nurse practitioners licensed by the ~~Boards of Medicine and~~ Board of Nursing in the category of certified nurse midwife, obstetricians, family physicians and pediatricians to establish protocols to be used in the pilot programs ~~no later than October 1, 2005.~~ The protocols shall include a uniform risk-screening tool for pregnant women to assure that women are referred to the appropriate provider based on their risk factors.

D. Pilot program proposals submitted for areas where access to obstetrical and pediatric care services is severely limited shall include mutually agreed upon protocols consistent with evidence-based practice and based on national standards that describe criteria for risk assessment, referral, and backup and shall also document how the pilot programs will evaluate their model and quality of care.

E. Pilot sites that elect to include birthing centers as part of the system of care shall be in close proximity to a health care facility equipped to perform emergency surgery, if needed. Birthing centers are facilities outside hospitals that provide maternity services. Any birthing center that is part of the pilot program shall, at a minimum, maintain membership in the National Association of Childbearing Centers and annually submit such information as may be required by the Commissioner. The pilot programs shall not provide or promote home births.

F. The Department shall evaluate and report on the impact and effectiveness of the pilot programs in meeting the program goals. The evaluation shall include the number of births, the number of referrals for emergency treatment services, successes and problems encountered, the overall operation of the pilot programs, and recommendations for improvement of the program. The Department shall submit a report to the Joint Commission on Health Care by November 15, 2006, and annually thereafter.

§ 32.1-134.2. Clinical privileges for certain practitioners.

The grant or denial of clinical privileges to licensed podiatrists and certified nurse midwives licensed as nurse practitioners pursuant to ~~§ 54.1-2957~~ 54.1-3044 by any hospital licensed in this Commonwealth, and the determination by the hospital of the scope of such privileges, shall be based upon such practitioner's professional license, experience, competence, ability, and judgment, and the reasonable objectives and regulations of the hospital in which such privileges are sought.

§ 54.1-2701. Exemptions.

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;
2. Apply to a nurse practitioner ~~certified licensed~~ by the Board of Nursing ~~and the Board of~~

305 ~~Medicine~~ except that intraoral procedures shall be performed only under the direct supervision of a
306 licensed dentist;

307 3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force,
308 Public Health Service, or Veterans Administration;

309 4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering
310 services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

311 5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia,
312 (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state,
313 territory, district or possession of the United States, (iii) volunteers to provide free health care to an
314 underserved area of this Commonwealth under the auspices of a publicly supported all volunteer,
315 nonprofit organization that sponsors the provision of health care to populations of underserved people,
316 (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies
317 the Board at least 15 days prior to the voluntary provision of services of the dates and location of such
318 service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in
319 compliance with the Board's regulations, during the limited period that such free health care is made
320 available through the volunteer, nonprofit organization on the dates and at the location filed with the
321 Board. The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose
322 license has been previously suspended or revoked, who has been convicted of a felony or who is
323 otherwise found to be in violation of applicable laws or regulations; or

324 6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth
325 in regulations promulgated by the Board.

326 § 54.1-2901. Exceptions and exemptions generally.

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

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

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

332 3. Any licensed nurse practitioner from rendering care ~~under the supervision of a duly licensed~~
333 ~~physician when such services are authorized by regulations promulgated jointly by the Board of~~
334 ~~Medicine and the Board of Nursing or services within the scope of his licensure and specialty~~
335 ~~certification~~;

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

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

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

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

352 8. The domestic administration of family remedies;

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

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

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

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

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

365 14. The practice of the religious tenets of any church in the ministration to the sick and suffering by
366 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 site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

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

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

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

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

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

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

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

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

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

26. 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;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession 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 that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least 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 practitioner of the healing arts whose license or certificate 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 practitioner of the healing arts 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;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens

428 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as
429 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division
430 of Consolidated Laboratories or other public health laboratories, designated by the State Health
431 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in
432 § 32.1-49.1;

433 29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered
434 nurse under his supervision the screening and testing of children for elevated blood-lead levels when
435 such testing is conducted (i) in accordance with a written protocol between the physician or nurse
436 practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations
437 promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be
438 conducted at the direction of a physician or nurse practitioner; *or*

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

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

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

451 § 54.1-2914. Sale of controlled substances and medical devices or appliances; requirements for vision
452 care services.

453 A. A practitioner of the healing arts shall not engage in selling controlled substances unless he is
454 licensed to do so by the Board of Pharmacy. However, this prohibition shall not apply to a doctor of
455 medicine, osteopathy or podiatry who administers controlled substances to his patients or provides
456 controlled substances to his patient in a bona fide medical emergency or when pharmaceutical services
457 are not available. Practitioners who sell or dispense controlled substances shall be subject to inspection
458 by the Department of Health Professions to ensure compliance with Chapters 33 (§ 54.1-3300 et seq.)
459 and 34 (§ 54.1-3400 et seq.) of this title and the Board of Pharmacy's regulations. This subsection shall
460 not apply to physicians acting on behalf of the Virginia Department of Health or local health
461 departments.

462 B. A practitioner of the healing arts who may lawfully sell medical appliances or devices shall not
463 sell such appliances or devices to persons who are not his own patients and shall not sell such articles to
464 his own patients either for his own convenience or for the purpose of supplementing his income. This
465 subsection shall not apply to physicians acting on behalf of the Virginia Department of Health or local
466 health departments.

467 C. A practitioner of the healing arts may, from within the practitioner's office, engage in selling or
468 promoting the sale of eyeglasses and may dispense contact lenses. Only those practitioners of the
469 healing arts who engage in the examination of eyes and prescribing of eyeglasses may engage in the
470 sale or promotion of eyeglasses. Practitioners shall not employ any unlicensed person to fill prescriptions
471 for eyeglasses within the practitioner's office except as provided in subdivision A 6 of § 54.1-2901. A
472 practitioner may also own, in whole or in part, an optical dispensary located adjacent to or at a distance
473 from his office.

474 D. Any practitioner of the healing arts engaging in the examination of eyes and prescribing of
475 eyeglasses shall give the patient a copy of any prescription for eyeglasses and inform the patient of his
476 right to have the prescription filled at the establishment of his choice. No practitioner who owns, in
477 whole or in part, an establishment dispensing eyeglasses shall make any statement or take any action,
478 directly or indirectly, that infringes on the patient's right to have a prescription filled at an establishment
479 other than the one in which the practitioner has an ownership interest.

480 Disclosure of ownership interest by a practitioner as required by § 54.1-2964 or participation by the
481 practitioner in contractual arrangements with third-party payors or purchasers of vision care services
482 shall not constitute a violation of this subsection.

483 § 54.1-3000. Definitions.

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

485 "Board" means the Board of Nursing.

486 "Certified nurse aide" means a person who meets the qualifications specified in this article and who
487 is currently certified by the Board.

488 "Clinical nurse specialist" means a person who is registered by the Board in addition to holding a
489 license under the provisions of this chapter to practice professional nursing as defined in this section.

Such a person shall be recognized as being able to provide advanced services according to the specialized training received from a program approved by the Board, but shall not be entitled to perform any act that is not within the scope of practice of professional nursing.

"Certified massage therapist" means a person who meets the qualifications specified in this chapter and who is currently certified by the Board.

"Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The terms "massage therapy" and "therapeutic massage" do not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

"Nurse practitioner" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter as a registered nurse and has met additional educational requirements as a nurse practitioner and who holds professional certification in a specialty area consistent with educational preparation issued by an agency approved by the Board.

"Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice practical nursing as defined in this section. Such a licensee shall be empowered to provide nursing services without compensation. The abbreviation "L.P.N." shall stand for such terms.

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

§ 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 or nurse practitioner 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 *or nurse practitioner* 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 or authorization~~ to practice ~~nursing~~ 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 that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license ~~or certification~~ issued in such other jurisdiction with the Board, (v) notifies the Board at least 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 nurse *or nurse practitioner* whose license ~~or certificate~~ 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 nurse *or nurse practitioner* 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; *or*

12. *The practice (i) of a nurse practitioner in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) of a nurse practitioner while participating in continuing educational programs prescribed by the Board, or (iii) by any nurse practitioner licensed and in good standing with the applicable regulatory agency in another state or Canada when that nurse practitioner is in Virginia temporarily and such nurse practitioner has been issued a temporary license by the Board.*

Article 8.

Licensure of Nurse Practitioners.

§ 54.1-3044. Licensure of nurse practitioners.

A. The Board of Nursing shall prescribe the regulations governing the licensure of nurse practitioners. It shall be unlawful for a person to practice as a nurse practitioner in this Commonwealth unless he holds such a license.

B. The Board of Nursing shall promulgate regulations related to the practice of nurse practitioners to include guidelines for referral to or consultation with medical or other health care providers when required by patient health care needs. Such regulations shall include such requirements as may be

necessary to (i) ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and (ii) address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

C. The Board may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed or otherwise authorized to practice as a nurse practitioner under the laws of another state and, in the opinion of the Board, the applicant meets the qualifications for licensure required of nurse practitioners in this Commonwealth.

D. Pending the outcome of the next National Specialty Examination, the Board may grant temporary licensure to nurse practitioners.

§ 54.1-3045. Advisory Board on Nurse Practitioners established; membership; duties; terms.

A. The Advisory Board on Nurse Practitioners is established as an advisory board in the executive branch of state government. The purpose of the Advisory Board is to assist the Board of Nursing in formulating regulations pertaining to the practice of nurse practitioners. The Advisory Board shall also assist in such other matters relating to the practice of nurse practitioners as the Board may require.

B. The Advisory Board shall consist of nine nonlegislative citizen members to be appointed by the Governor, with input from the Boards of Medicine and Pharmacy, for four year terms as follows: three shall be licensed nurse practitioners, three shall be licensed physicians, two shall be licensed pharmacists, and one citizen who has used nurse practitioner services. Nonlegislative citizen members of the Advisory Board shall be citizens of the Commonwealth.

Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

C. The Advisory Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Advisory Board shall be held at the call of the chairman or whenever the majority of the members so request.

D. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Board of Nursing.

E. The Department of Health Professions shall provide staff support to the Advisory Board. All agencies of the Commonwealth shall provide assistance to the Advisory Board upon request.

§ 54.1-3046. Prescriptive authority of nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner, other than a certified registered nurse anesthetist, shall have the authority to prescribe Schedule II through VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.). Nurse practitioners shall have such prescriptive authority upon the provision to the Board of Nursing of such evidence as it may require to verify that the nurse practitioner is qualified to prescribe by his education, training, and certification.

B. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

C. The Board of Nursing, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners that are otherwise authorized by law or regulation.

§ 54.1-3047. When nurse practitioner signature accepted.

Whenever any law or regulation requires a signature, certification, stamp, verification, affidavit, or endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification, affidavit or endorsement by a nurse practitioner.

§ 54.1-3048. Certified nurse midwives; required disclosures; liability.

A. A certified nurse midwife who provides health care services to a patient outside of a hospital or birthing center as defined in subsection E of § 32.1-11.5 shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

B. The certified nurse midwife who provided health care to a patient shall be liable for the midwife's

674 *negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by*
675 *law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife*
676 *regarding the patient and who has not previously treated the patient for this pregnancy, (ii) nurse, (iii)*
677 *prehospital emergency medical personnel, or (iv) hospital as defined in § 32.1-123 or agents thereof,*
678 *who provides screening and stabilization health care services to a patient as a result of a certified nurse*
679 *midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from*
680 *liability for acts or omissions constituting ordinary negligence.*

681 § 54.1-3301. Exceptions.

682 This chapter shall not be construed to:

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

686 2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as
687 defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health
688 departments, from administering or supplying to his patients the medicines that he deems proper under
689 the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to
690 §§ 32.1-42.1 and 54.1-3408;

691 3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34
692 (§ 54.1-3400 et seq.) of this title;

693 4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34
694 (§ 54.1-3400 et seq.) of this title;

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

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

701 7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic
702 pharmaceutical agents, from purchasing, possessing or administering those controlled substances as
703 specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to
704 prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own
705 patients those controlled substances as specified in § 54.1-3222 and the TPA formulary, providing
706 manufacturers' samples of these drugs to his own patients, or dispensing, administering, or selling
707 ophthalmic devices as authorized in § 54.1-3204;

708 8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his
709 own patients manufacturers' professional samples of controlled substances and devices that he is
710 authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice
711 setting and a written agreement with a physician or podiatrist;

712 9. Interfere with any licensed nurse practitioner with prescriptive authority receiving and dispensing
713 to his own patients manufacturers' professional samples of controlled substances and devices that he is
714 authorized, in compliance with the provisions of § ~~54.1-2957.04~~ 54.1-3046, to prescribe according to his
715 practice setting and a written agreement with a physician;

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

734 11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing
735 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 that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least 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.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § ~~54.1-2957.04~~ 54.1-3046, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

C. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine authorized to issue such prescription if the prescription complies with the requirements of this chapter and Chapter 34 (§ 54.1-3400 et seq.) of this title, known as the "Drug Control Act."

D. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § ~~54.1-2957.04~~ 54.1-3046 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a

797 medicinal or therapeutic purpose within the scope of his professional practice.

798 E. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to
799 § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled
800 substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal
801 or therapeutic purpose within the scope of his professional practice.

802 F. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to
803 Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title may issue prescriptions in good faith or
804 provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within
805 the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant
806 to § 54.1-3223, which shall be limited to (i) oral analgesics included in Schedules III through VI, as
807 defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are
808 appropriate to relieve ocular pain, (ii) other oral Schedule VI controlled substances, as defined in
809 § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human
810 eye and its adnexa, (iii) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug
811 Control Act, and (iv) intramuscular administration of epinephrine for treatment of emergency cases of
812 anaphylactic shock.

813 G. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by
814 a member or committee of a hospital's medical staff when approving a standing order or protocol for the
815 administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with
816 § 32.1-126.4.

817 § 54.1-3401. Definitions.

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

819 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,
820 ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or by his
821 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the
822 presence of the practitioner.

823 "Advertisement" means all representations disseminated in any manner or by any means, other than
824 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the
825 purchase of drugs or devices.

826 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,
827 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or
828 employee of the carrier or warehouseman.

829 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related
830 to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

831 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

832 "Automated drug dispensing system" means a mechanical or electronic system that performs
833 operations or activities, other than compounding or administration, relating to pharmacy services,
834 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of
835 all transaction information, to provide security and accountability for such drugs.

836 "Board" means the Board of Pharmacy.

837 "Bulk drug substance" means any substance that is represented for use, and that, when used in the
838 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a
839 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that
840 are used in the synthesis of such substances.

841 "Change of ownership" of an existing entity permitted, registered or licensed by the Board means (i)
842 the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns
843 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a
844 partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more
845 of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation
846 of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the
847 voting stock of which is actively traded on any securities exchange or in any over-the-counter market;
848 (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned
849 subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a
850 corporation's charter.

851 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into a
852 single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by
853 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or
854 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in
855 expectation of receiving a valid prescription based on observed prescribing patterns; (ii) by or for a
856 practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his
857 administering or dispensing, if authorized to dispense, a controlled substance in the course of his
858 professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical

analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.) or a person supervised by such practitioner pursuant to subdivisions 4, 6, or 19 of subsection A of § 54.1-2901, shall not be considered compounding.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1.

"DEA" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; or (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii) or (iii). "Drug" does not include devices or their components, parts or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order, which is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the United States Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement

920 or other information also appears on the outside container or wrapper, if any, of the retail package of
921 such article, or is easily legible through the outside container or wrapper.

922 "Labeling" means all labels and other written, printed or graphic matter on an article or any of its
923 containers or wrappers, or accompanying such article.

924 "Manufacture" means the production, preparation, propagation, conversion or processing of any item
925 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or
926 independently by means of chemical synthesis, or by a combination of extraction and chemical
927 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its
928 container. This term does not include compounding.

929 "Manufacturer" means every person who manufactures.

930 "Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds or
931 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
932 or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless
933 such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include
934 the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seeds of such
935 plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*.

936 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to
937 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and
938 needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with
939 no medicinal properties which are used for the operation and cleaning of medical equipment and
940 solutions for peritoneal dialysis.

941 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction
942 from substances of vegetable origin, or independently by means of chemical synthesis, or by a
943 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,
944 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof
945 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not
946 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and
947 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,
948 derivative, or preparation thereof which is chemically equivalent or identical with any of these
949 substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain
950 cocaine or ecgonine.

951 "New drug" means: (i) any drug, except a new animal drug or an animal feed bearing or containing
952 a new animal drug, the composition of which is such that such drug is not generally recognized, among
953 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,
954 as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,
955 except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior
956 to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as
957 amended, and if at such time its labeling contained the same representations concerning the conditions
958 of its use; or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new
959 animal drug, the composition of which is such that such drug, as a result of investigations to determine
960 its safety and effectiveness for use under such conditions, has become so recognized, but which has not,
961 otherwise than in such investigations, been used to a material extent or for a material time under such
962 conditions.

963 "Nuclear medicine technologist" means an individual who holds a current certification with the
964 American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification
965 Board.

966 "Official compendium" means the official United States Pharmacopoeia National Formulary, official
967 Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

968 "Official written order" means an order written on a form provided for that purpose by the United
969 States Drug Enforcement Administration, under any laws of the United States making provision therefor,
970 if such order forms are authorized and required by federal law, and if no such order form is provided
971 then on an official form provided for that purpose by the Board of Pharmacy.

972 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to
973 morphine or being capable of conversion into a drug having such addiction-forming or
974 addiction-sustaining liability. It does not include, unless specifically designated as controlled under
975 Article 4 (§ 54.1-3437 et seq.) of this chapter, the dextrorotatory isomer of
976 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and
977 levorotatory forms.

978 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

979 "Original package" means the unbroken container or wrapping in which any drug or medicine is
980 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor
981 for use in the delivery or display of such article.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01 Article 8 (§ 54.1-3044 et seq.) of Chapter 30, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to, a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian or other practitioner, authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503 (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353 (b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug which is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug which may be dispensed only upon prescription or the label of which bears substantially the statement "Warning - may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the United States Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exceptions set forth in § 54.1-3401.1.

"Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses conducting wholesale distributions, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies conducting wholesale distributions. No person shall be subject to any state or local tax as a wholesale merchant by reason of this definition.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter

shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy" and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 unless the context requires a different meaning.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § ~~54.1-2957.01~~ 54.1-3046, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause them to be administered by a nurse, physician assistant or intern under his direction and supervision, or he may prescribe and cause drugs and devices to be administered to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services by other persons who have been trained properly to administer drugs and who administer drugs only under the control and supervision of the prescriber or a pharmacist or a prescriber may cause drugs and devices to be administered to patients by emergency medical services personnel who have been certified and authorized to administer such drugs and devices pursuant to Board of Health regulations governing emergency medical services and who are acting within the scope of such certification. A prescriber may authorize a licensed respiratory care practitioner as defined in § 54.1-2954 to administer by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs, or to possess and administer epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of a school board who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer 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. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician or physician assistant is not present to perform the administration of the medication.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, (i) by licensed pharmacists, (ii) by registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist or nurse when the prescriber is not physically present.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a ~~physician's~~ *prescriber's* instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or the Child Day Care Council, provided such person (i) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization

1166 from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in
1167 accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of
1168 administration; and (iv) administers only those drugs that were dispensed from a pharmacy and
1169 maintained in the original, labeled container that would normally be administered by a parent or
1170 guardian to the child.

1171 P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by
1172 persons if they are authorized by the State Health Commissioner in accordance with protocols
1173 established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has
1174 declared a disaster or a state of emergency or the United States Secretary of Health and Human Services
1175 has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public
1176 health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such
1177 persons have received the training necessary to safely administer or dispense the needed drugs or
1178 devices. Such persons shall administer or dispense all drugs or devices under the direction, control and
1179 supervision of the State Health Commissioner.

1180 Q. Nothing in this title shall prohibit the administration of normally self-administered oral or topical
1181 drugs by unlicensed individuals to a person in his private residence.

1182 R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his
1183 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to
1184 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid
1185 prescriptions.

1186 S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care
1187 technicians who are certified by an organization approved by the Board of Health Professions or persons
1188 authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this title, in the
1189 ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin,
1190 topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for
1191 the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under
1192 the orders of a licensed physician, nurse practitioner or physician assistant and under the immediate and
1193 direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a
1194 patient care dialysis technician trainee from performing dialysis care as part of and within the scope of
1195 the clinical skills instruction segment of a supervised dialysis technician training program, provided such
1196 trainee is identified as a "trainee" while working in a renal dialysis facility.

1197 The dialysis care technician or dialysis patient care technician administering the medications shall
1198 have demonstrated competency as evidenced by holding current valid certification from an organization
1199 approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) of this
1200 title.

1201 T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be
1202 authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

1203 U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a
1204 prescriber may authorize the administration of controlled substances by personnel who have been
1205 properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not
1206 include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for
1207 such administration.

1208 V. A nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of
1209 children aged six months to three years pursuant to an oral or written order or a standing protocol issued
1210 by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the
1211 Virginia Department of Health.

1212 W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may
1213 authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, or
1214 licensed practical nurse under the direction and immediate supervision of a registered nurse, when the
1215 prescriber is not physically present.

1216 § 54.1-3482. Certain experience and referrals required; unlawful to practice physical therapist
1217 assistance except under the direction and control of a licensed physical therapist.

1218 A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed
1219 physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy,
1220 chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or
1221 a licensed physician assistant acting under the supervision of a licensed physician, except as provided in
1222 this section.

1223 B. A physical therapist who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may
1224 evaluate and treat a patient for no more than 14 consecutive business days after evaluation without a
1225 referral under the following conditions: (i) the patient at the time of presentation to a physical therapist
1226 for physical therapy services is not being currently cared for, as attested to in writing by the patient, by
1227 a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse

practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation; (ii) the patient identifies a practitioner from whom the patient intends to seek treatment if the condition for which he is seeking treatment does not improve after evaluation and treatment by the physical therapist during the 14-day period of treatment; (iii) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (iv) the physical therapist notifies the practitioner identified by the patient no later than three days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Evaluation and treatment may not be initiated by a physical therapist if the patient does not identify a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician to manage the patient's condition. Treatment for more than 14 consecutive business days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 14-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. A physical therapist shall not perform an initial evaluation of a patient under this subsection if the physical therapist has performed an initial evaluation of the patient under this subsection within the immediately preceding three months. For the purposes of this subsection, business days means Monday through Friday of each week excluding state holidays.

C. After completing a three-year period of active practice upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician, a physical therapist may conduct a one-time evaluation, that does not include treatment, of a patient who does not meet the conditions established in (i) through (iv) of subsection B without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

D. Invasive procedures within the scope of practice of physical therapy shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician.

E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed nurse practitioner as ~~authorized in his practice protocol~~, whose medical condition is determined, at the time of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

F. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

§ 54.1-3482.1. Certain certification required.

A. The Board shall promulgate regulations establishing criteria for certification of physical therapists to provide certain physical therapy services pursuant to subsection B of § 54.1-3482, without referral from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as ~~authorized in his practice protocol~~, or a licensed physician assistant acting under the supervision of a licensed physician. The regulations shall include but not be limited to provisions for (i)

1289 the promotion of patient safety; (ii) an application process for certification to perform such procedures;
1290 (iii) minimum education, training, and experience requirements for certification to perform such
1291 procedures; and (iv) continuing education requirements relating to carrying out direct access duties under
1292 § 54.1-3482.

1293 B. The minimum education, training, and experience requirements for certification shall include
1294 evidence that the applicant has successfully completed (i) a doctor of physical therapy program approved
1295 by the American Physical Therapy Association; (ii) a transitional program in physical therapy as
1296 recognized by the Board; or (iii) at least three years of active practice with evidence of continuing
1297 education relating to carrying out direct access duties under § 54.1-3482.

1298 C. In promulgating minimum education, training, and experience criteria, the Board shall consult with
1299 an advisory committee comprised of three members selected by the Medical Society of Virginia and
1300 three members selected by the Virginia Physical Therapy Association. All members of the advisory
1301 committee shall be licensed by the Board of Physical Therapy or the Board of Medicine and shall
1302 engage in clinical practice. The committee shall have a duty to act collaboratively and in good faith to
1303 recommend the education, training, and experience necessary to promote patient safety. The advisory
1304 committee shall prepare a written report of its recommendations and shall submit this report to the
1305 Board of Physical Therapy and shall also submit its recommendations to the Board of Medicine for such
1306 comments as may be deemed appropriate, prior to the promulgation of draft regulations. The advisory
1307 committee may meet periodically to advise the Board on the regulation of such procedures.

1308 D. In promulgating the regulations required by this section, the Board shall take due consideration of
1309 the education, training, and experience requirements adopted by the American Physical Therapy
1310 Association and the American Medical Association.

1311 § 63.2-2203. Grant application process; administration.

1312 A. Grant applications shall be submitted by caregivers to the Department between February 1 and
1313 May 1 of the year following the calendar year in which the care for a mentally or physically impaired
1314 person was provided. Failure to meet the application deadline shall render the caregiver ineligible to
1315 receive a grant for care provided during such calendar year. For filings by mail, the postmark
1316 cancellation shall govern the date of the filing determination.

1317 B. Applications for grants shall include (i) proof of the caregiver's income and that of the caregiver's
1318 spouse, if applicable; (ii) certification by the private physician, licensed physician assistant pursuant to
1319 § 54.1-2951.2, or nurse practitioner pursuant to § 54.1-2957.02 54.1-3047 who has screened the mentally
1320 or physically impaired person and found him to be eligible, in accordance with relevant state
1321 regulations, for placement in an assisted-living facility or a nursing home or for receiving community
1322 long-term care services; (iii) the mentally or physically impaired person's place of residence; and (iv)
1323 such other relevant information as the Department may reasonably require. Any caregiver applying for
1324 the grant pursuant to this chapter shall affirm, by signing and submitting his application for a grant, that
1325 the mentally or physically impaired person for whom he provided care and the care provided meet the
1326 criteria set forth in this chapter. As a condition of receipt of a grant, a caregiver shall agree to make
1327 available to the Department for inspection, upon request, all relevant and applicable documents to
1328 determine whether the caregiver meets the requirements for the receipt of grants as set forth in this
1329 chapter, and to consent to the use by the Department of all relevant information relating to eligibility for
1330 the requested grant.

1331 C. The Department shall review applications for grants and determine eligibility and the amount of
1332 the grant to be allocated to each eligible caregiver. If the moneys in the Fund are less than the amount
1333 of grants to which applicants are eligible for caregiver services provided in the preceding calendar year,
1334 the moneys in the Fund shall be apportioned among eligible applicants pro rata, based upon the amount
1335 of the grant for which an applicant is eligible and the amount of money in the Fund.

1336 D. The Department shall certify to the Comptroller the amount of grant to be allocated to eligible
1337 caregiver applicants. Payments shall be made by check issued by the State Treasurer on warrant of the
1338 Comptroller. The Comptroller shall not draw any warrants to issue checks for this program without a
1339 specific legislative appropriation as specified in conditions and restrictions on expenditures in the
1340 appropriation act.

1341 E. Actions of the Department relating to the review, allocation and awarding of grants shall be
1342 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to
1343 subdivision B 4 of § 2.2-4002. Decisions of the Department shall be final and not subject to review or
1344 appeal.

1345 2. That §§ 54.1-2957, 54.1-2957.01, 54.1-2957.02, and 54.1-2957.03 of the Code of Virginia are
1346 repealed.

1347 3. That individuals licensed as nurse practitioners by the Boards of Medicine and Nursing prior to
1348 the effective date of this act shall be licensed as nurse practitioners by the Board of Nursing.

1349 4. That regulations regarding the licensure or prescriptive authority of nurse practitioners that
1350 were promulgated by the Boards of Medicine and Nursing and in effect on the effective date of

1351 this act shall continue in full force and effect unless and until amended or repealed by the Board
1352 of Nursing. Regulatory actions validly commenced by the Boards of Medicine and Nursing that are
1353 pending prior to the effective date of this act shall remain in effect until amended or rescinded by
1354 the Board or Nursing.
1355 5. That disciplinary actions commenced by the Committee of the Joint Boards prior to the
1356 effective date of this act shall be concluded by the Board of Nursing.
1357 6. That the terms for the initial appointments to the Advisory Board on Nurse Practitioners
1358 created pursuant to this act shall be staggered as follows: three members shall be appointed for
1359 two-year terms, three members shall be appointed for three-year terms, and three members shall
1360 be appointed for four-year terms.
1361 7. That the Board of Nursing shall promulgate regulations to implement the provisions of this act
1362 to be effective within 280 days of its enactment.