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**SENATE BILL NO. 828**

Offered January 12, 2011

Prefiled January 6, 2011

*A BILL to amend and reenact § 54.1-2901 of the Code of Virginia, relating to an exemption from licensure for health professionals transporting patients to a neighboring state.*

Patron—Edwards

Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-2901 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2901. Exceptions and exemptions generally.

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

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

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

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

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

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

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

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

8. The domestic administration of family remedies;

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

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

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

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

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

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

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

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary license or certification by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer

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59 camp or in conjunction with patients who are participating in recreational activities, (ii) while  
60 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any  
61 site any health care services within the limits of his license, voluntarily and without compensation, to  
62 any patient of any clinic which is organized in whole or in part for the delivery of health care services  
63 without charge as provided in § 54.1-106;

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

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

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

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

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

77 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force  
78 rendering services voluntarily and without compensation while deemed to be licensed pursuant to  
79 § 54.1-106;

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

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

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

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

95 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering  
96 free health care to an underserved population of Virginia who (i) does not regularly practice his  
97 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another  
98 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to  
99 an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer,  
100 nonprofit organization that sponsors the provision of health care to populations of underserved people,  
101 (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v)  
102 notifies the Board at least five business days prior to the voluntary provision of services of the dates and  
103 location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be  
104 valid, in compliance with the Board's regulations, during the limited period that such free health care is  
105 made available through the volunteer, nonprofit organization on the dates and at the location filed with  
106 the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts  
107 whose license or certificate has been previously suspended or revoked, who has been convicted of a  
108 felony or who is otherwise found to be in violation of applicable laws or regulations. However, the  
109 Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer  
110 services without prior notice for a period of up to three days, provided the nonprofit organization  
111 verifies that the practitioner has a valid, unrestricted license in another state;

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

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

practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

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

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

32. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks; or

33. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily in order to transport a patient to a neighboring state for care.

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