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HOUSE BILL NO. 543

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 4.1-100, 54.1-3000, 54.1-3005, 54.1-3008, 54.1-3029, and 54.1-3029.1 of the Code of Virginia, relating to licensure of massage therapists.

Patrons—Robinson and Carr

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 54.1-3000, 54.1-3005, 54.1-3008, 54.1-3029, and 54.1-3029.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income

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59 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a
60 nonprofit corporation or association.

61 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding
62 alcoholic beverages.

63 "Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent
64 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
65 intended for human consumption consisting of a variety of such items of the types normally sold in
66 grocery stores.

67 "Day spa" means any commercial establishment that offers to the public both massage therapy,
68 performed by persons ~~certified~~ licensed in accordance with § 54.1-3029, and barbering or cosmetology
69 services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

70 "Designated area" means a room or area approved by the Board for on-premises licensees.

71 "Dining area" means a public room or area in which meals are regularly served.

72 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
73 manufactured, sold, or used.

74 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
75 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
76 premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol
77 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
78 area or agreements for purchasing grapes or other fruits from agricultural growers within the
79 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
80 lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this
81 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
82 individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm
83 winery, the term "farm" as used in this definition includes all of the land owned or leased by the
84 individual members of the cooperative as long as such land is located in the Commonwealth.

85 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
86 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
87 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
88 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
89 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
90 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
91 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
92 considered a gift shop.

93 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
94 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
95 persons facilities for manufacturing, fermenting and bottling such wine or beer.

96 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
97 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
98 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
99 furnished to persons.

100 "Government store" means a store established by the Board for the sale of alcoholic beverages.

101 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
102 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
103 four or more bedrooms. It shall also mean the person who operates such hotel.

104 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
105 pursuant to this title.

106 "Internet wine retailer" means a person who owns or operates an establishment with adequate
107 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone
108 orders are taken and shipped directly to consumers and which establishment is not a retail store open to
109 the public.

110 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
111 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

112 "Licensed" means the holding of a valid license issued by the Board.

113 "Licensee" means any person to whom a license has been granted by the Board.

114 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
115 content of 25 percent by volume.

116 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
117 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
118 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
119 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
120 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of

this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;

182 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
183 beverages.

184 "Sangria" means a drink consisting of red or white wine mixed with some combination of
185 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
186 similar spirits.

187 "Special agent" means an employee of the Department of Alcoholic Beverage Control whom the
188 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

189 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
190 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

191 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable
192 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and
193 gin, or any one or more of the last four named ingredients; but shall not include any such liquors
194 completely denatured in accordance with formulas approved by the United States government.

195 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
196 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
197 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
198 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
199 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
200 alcohol content of 21 percent by volume.

201 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
202 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
203 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
204 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
205 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
206 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

207 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
208 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
209 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
210 such retail licensee.

211 § 54.1-3000. Definitions.

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

213 "Board" means the Board of Nursing.

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

216 "Clinical nurse specialist" means a person who is registered by the Board in addition to holding a
217 license under the provisions of this chapter to practice professional nursing as defined in this section.
218 Such a person shall be recognized as being able to provide advanced services according to the
219 specialized training received from a program approved by the Board, but shall not be entitled to perform
220 any act that is not within the scope of practice of professional nursing.

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

223 "Massage therapy *and bodywork*" means the ~~treatment of soft tissues for therapeutic purposes by the~~
224 ~~application of massage and bodywork techniques based on the manipulation or application of pressure to~~
225 ~~the muscular structure or soft tissues of the human body~~ *manual manipulation for compensation of a*
226 *system of structured touch of the soft tissues of the body with the intent to enhance or restore health*
227 *and well-being. The application may include pressure, compression, friction, rocking, pretrissage,*
228 *effleurage, tapotement, and passive or active stretching within the normal anatomical range of*
229 *movement and complimentary techniques, such as the external application of lubricants, hydrotherapy,*
230 *salt or herbal preparations, powder, hot or cold applications or mechanical devices that mimic or*
231 *enhance actions that may be done manually. The term "massage therapy" and "therapeutic*
232 *massage/bodywork" does not include the diagnosis or treatment of illness or disease or any service or*
233 *procedure for which a license to practice medicine, nursing, midwifery, chiropractic therapy, physical*
234 *therapy, occupational therapy, acupuncture, or athletic training, podiatry, or esthetics is required by law.*

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

239 "Practical nursing" or "licensed practical nursing" means the performance for compensation of
240 selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in
241 normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject
242 to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse
243 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.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To approve programs that entitle professional nurses to be registered as clinical nurse specialists and to prescribe minimum standards for such programs;

10. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

11. To ~~certify~~ *license* and maintain a registry of all ~~certified~~ *licensed* massage therapists and to promulgate regulations governing the criteria for ~~certification~~ *licensure* as a massage therapist and the standards of professional conduct for ~~certified~~ *licensed* massage therapists;

12. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

13. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

15. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

16. To expedite application processing, to the extent possible, for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

17. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

18. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

19. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

20. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services or the Child Day Care Council in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

21. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies; and

22. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website.

§ 54.1-3008. Particular violations; prosecution.

A. It shall be a Class 1 misdemeanor for any person to:

1. Practice nursing under the authority of a license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

2. Practice nursing unless licensed to do so under the provisions of this chapter;

3. Knowingly employ an unlicensed person as a professional or practical nurse or knowingly permit an unlicensed person to represent himself as a professional or practical nurse;

4. Use in connection with his name any designation tending to imply that he is a professional nurse or a practical nurse unless duly licensed to practice under the provisions of this chapter;

5. Practice professional nursing or practical nursing during the time his license is suspended or revoked;

6. Conduct a nursing education program for the preparation of professional or practical nurses unless the program has been approved by the Board;

7. ~~Claim to be, on and after July 1, 1997, a certified massage therapist or massage therapist~~ *Engage in the practice of massage therapy and bodywork* or use any designation tending to imply that he is a ~~massage therapist qualified to practice massage therapy and bodywork or certified~~ *is a licensed* massage therapist unless he is ~~certified~~ *licensed* under the provisions of this chapter.

B. The provisions of this section shall apply, mutatis mutandis, to persons holding a multistate licensure privilege to practice nursing.

Article 5.

~~Certification~~ Licensure of Massage Therapists.

§ 54.1-3029. Qualifications for a licensed massage therapist.

A. In order to be ~~certified~~ *licensed* as a massage therapist, the applicant shall furnish evidence satisfactory to the Board that the applicant:

1. Is at least 18 years old;

2. Has successfully completed a minimum of 500 hours of training from a massage therapy program, certified or approved by the State Council of Higher Education or an agency in another state, the District of Columbia ~~or~~, a United States territory, *or another country* that approves educational programs, notwithstanding the provisions of § 23-276.2;

3. Has passed the National Certification Exam for Therapeutic Massage and Bodywork, *the National Certification Exam for Therapeutic Massage, the Licensing Examination of the Federation of State Massage Therapy Boards*, or an exam deemed acceptable to the Board of Nursing ~~leading to national certification~~; and

4. Has not committed any acts or omissions that would be grounds for disciplinary action or denial of ~~certification~~ *licensure* as set forth in this chapter.

B. The Board may certify any applicant who has been practicing massage therapy for up to 10 years prior to July 1, 1997, and has completed at least 200 hours of training in an education program. Such programs may be, but shall not be required to be, certified or approved by the State Council of Higher Education or an agency in another state, the District of Columbia or a United States territory that approves educational programs, or has been in practice for 10 years or more prior to July 1, 1997, and has completed 20 hours of such training; or has passed the National Certification Exam for Therapeutic Massage and Bodywork prior to 1994 *license any massage therapist certified, in good standing, by the Commonwealth.*

C. The Board may issue a provisional certification to an applicant prior to passing the National Certification Exam for Therapeutic Massage and Bodywork for such time and in such manner as prescribed by the Board. No more than one provisional certification shall be issued to any applicant.

D. The Board may ~~certify~~ *license* without examination any applicant who is licensed or certified as a massage therapist in another state, the District of Columbia, a United States possession or territory, or another country, and, in the opinion of the Board, meets the requirements for ~~certified~~ *licensed* massage therapists in ~~this~~ *the* Commonwealth.

D. The provisions of this article shall not apply to (i) a student functioning as a massage therapist under the supervision of a licensed massage therapist; (ii) a massage therapist licensed or certified in another state, the District of Columbia, or another country, volunteering at a sporting or recreational event or activity; or (iii) the practice of techniques that are specifically intended to affect human energy field.

§ 54.1-3029.1. Advisory Board on Massage Therapy.

The Advisory Board on Massage Therapy shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration, regulation, and standards of professional conduct of massage therapists as described in § 54.1-3029. The Advisory Board shall also assist in such other matters relating to the practice of massage therapy as the Board may require.

The Advisory Board on Massage Therapy shall consist of five members to be appointed by the Governor for four-year terms as follows: three members shall be ~~certified~~ *licensed* massage therapists who have practiced in the Commonwealth for not less than three years prior to their appointment; one shall be an administrator or faculty member of a nationally accredited school of massage therapy; and one shall be a citizen member appointed from the Commonwealth at large.

The Advisory Board shall elect a chairman and vice-chairman from among its membership. The Advisory Board shall meet at least once a year and may hold additional meetings as necessary to perform its duties. A majority of the Board shall constitute a quorum for the conduct of business.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

2. That the Board of Nursing shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That the Board of Nursing may issue a provisional license valid until July 1, 2014, to any individual who meets the requirements for certification as a massage therapist pursuant to Article 5 of Chapter 30 of Title 54.1 by July 1, 2012.

4. That certified massage therapists currently serving on the Advisory Board on Massage Therapy shall complete their terms. At the expiration of their current terms, licensed massage therapists shall be appointed to replace them.