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HOUSE BILL NO. 543

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on February 2, 2012)

(Patron Prior to Substitute—Delegate Robinson)

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.

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

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding

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60 alcoholic beverages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

114 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
115 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
116 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
117 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
118 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
119 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved
120 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be
121 sold for on-premises consumption other than by mixed beverage licensees.

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

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

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

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

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

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

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

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

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

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

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

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

179 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
 180 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
 181 beverages.

182 "Sangria" means a drink consisting of red or white wine mixed with some combination of

183 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
184 similar spirits.

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

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

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

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

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

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

209 § 54.1-3000. Definitions.

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

211 "Board" means the Board of Nursing.

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

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

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

221 "Massage therapy *and bodywork*" means, *consistent with professional standards*, the treatment of soft
222 tissues for therapeutic purposes by the application of massage and bodywork techniques based on the
223 manipulation or application of pressure to the muscular structure or soft tissues of the human body. The
224 ~~terms term~~ "massage therapy" and "~~therapeutic massage bodywork~~" ~~do~~ does not include the diagnosis or
225 treatment of illness or disease or any service or procedure for which a license to practice medicine,
226 nursing, *midwifery*, chiropractic ~~therapy~~ *including spinal manipulation*, physical therapy, occupational
227 therapy, acupuncture, ~~or~~ *athletic training*, podiatry, or *esthetics* is required by law.

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

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

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

245 profession.

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

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

261 § 54.1-3005. Specific powers and duties of Board.

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

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

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

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

268 4. To provide for periodic surveys of educational programs;

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

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

272 7. To keep a record of all its proceedings;

273 8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations
274 consistent with federal law and regulation. The Board shall require all schools to demonstrate their
275 compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in
276 response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to
277 § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of
278 licensed practical nurses to teach nurse aides;

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

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

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

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

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

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

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

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

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

305 18. To approve training programs for medication aides to include requirements for instructional

306 personnel, curriculum, continuing education, and a competency evaluation;

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

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

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

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

325 § 54.1-3008. Particular violations; prosecution.

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

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

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

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

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

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

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

338 7. Claim to be, ~~on and after July 1, 1997, a certified massage therapist or~~ message therapist or use
339 any designation tending to imply that he is a message therapist ~~or certified massage therapist~~ unless he
340 is ~~certified~~ licensed under the provisions of this chapter.

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

343 Article 5.

344 ~~Certification~~ Licensure of Massage Therapists.

345 § 54.1-3029. Qualifications for a licensed massage therapist.

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

348 1. Is at least 18 years old;

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

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

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

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

367 C. The Board may issue a provisional certification to an applicant prior to passing the National

368 Certification Exam for Therapeutic Massage and Bodywork for such time and in such manner as
 369 prescribed by the Board. No more than one provisional certification shall be issued to any applicant.

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

374 D. The provisions of this article shall not apply to (i) a student functioning as a massage therapist
 375 under the supervision of a licensed massage therapist; (ii) a massage therapist licensed or certified in
 376 another state, the District of Columbia, or another country, volunteering at a sporting or recreational
 377 event or activity; (iii) the practice of techniques or modalities that may include touch or movement and
 378 that are intended to deepen awareness of existing patterns of body movement, affect energy systems,
 379 improve wellbeing or restore postural balance, provided such services are not designated or implied to
 380 be massage therapy; or (iv) any health care professional licensed to practice medicine, nursing,
 381 midwifery, chiropractic, physical therapy, occupational therapy, acupuncture, athletic training, or
 382 podiatry.

383 § 54.1-3029.1. Advisory Board on Massage Therapy.

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

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

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

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

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

400 **3. That the Board of Nursing may issue a provisional license valid until July 1, 2014, to any**
 401 **individual who meets the requirements for certification as a massage therapist pursuant to Article**
 402 **5 (§ 54.1-3029 et seq.) of Chapter 30 of Title 54.1 of the Code of Virginia by July 1, 2012.**

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