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## SENATE BILL NO. 212

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 4, 2016)

(Patron Prior to Substitute—Senator Dunnavant)

A BILL to amend and reenact §§ 54.1-2507, 54.1-2515, 54.1-2517, 54.1-3002, and 54.1-3503 of the Code of Virginia, relating to health regulatory boards; membership and terms.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2507, 54.1-2515, 54.1-2517, 54.1-3002, and 54.1-3503 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2507. Board of Health Professions; membership, appointments, and terms of office.

The Board of Health Professions shall consist of one member from each health regulatory board appointed by the Governor; and five members to be appointed by the Governor from the Commonwealth at large. No member of the Board of Health Professions who represents a health regulatory board shall serve as such after he ceases to be a member of a board. The members appointed by the Governor shall be subject to confirmation by the General Assembly and shall serve for four-year terms or terms concurrent with their terms as members of health regulatory boards, whichever is less.

§ 54.1-2515. Definitions.

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

"Committee" means the Health Practitioners' Monitoring Program Committee as described in § 54.1-2517.

"Contract" means a written agreement between a practitioner and the Committee providing the terms and conditions of program participation or a written agreement entered into by the Director for the implementation of monitoring services.

"Disciplinary action" means any proceeding which that may lead to a monetary penalty; or probation; or to a reprimand, restriction, revocation, suspension, denial, or other order relating to the license, certificate, registration, or multistate privilege of a health care practitioner issued by a health regulatory board.

"Impairment" means a physical or mental disability, including, but not limited to substance abuse, that substantially alters the ability of a practitioner to practice his profession with safety to his patients and the public.

"Practitioner" means any individual regulated by any health regulatory board listed in § 54.1-2503.

"Program" means the Health Practitioners' Monitoring Program established pursuant to § 54.1-2516.

§ 54.1-2517. Health Practitioners' Monitoring Program Committee; certain meetings, decisions to be excepted from the Freedom of Information Act; confidentiality of records; immunity from liability.

A. The Health Practitioners' Monitoring Program Committee shall consist of seven nine persons who are appointed by the Director to advise and assist in the operation of the Program, of whom eight shall be licensed, certified, or registered practitioners appointed by the Director to advise and assist in the operation of the Program, and one shall be a citizen member. Of the members who are licensed, certified, or registered practitioners, at least one of whom shall be licensed to practice medicine or osteopathy in Virginia and who shall be engaged in active clinical practice, and at least one of whom shall be a registered nurse who shall be engaged in active practice. All members of the Committee, and all shall be knowledgeable about impairment and rehabilitation, particularly as related to the monitoring of health care practitioners. The Health Practitioners' Monitoring Program Committee shall have the following powers and duties:

1. To determine, in accordance with the regulations, eligibility to enter into the Program;

2. To determine, in accordance with the regulations, those Program participants who are eligible for stayed disciplinary action;

3. To enter into written contracts with practitioners which may include, among other terms and conditions, withdrawal from practice or limitations on the scope of the practice for a period of time;

4. To report to the Director and the health regulatory boards as necessary on the status of applicants for and participants in the Program;

5. To report to the Director, at least annually, on the performance of the Program; and

6. To assist the Director in carrying out the provisions of this chapter.

B. Records of the Health Practitioners' Monitoring Program, to the extent such records identify individual practitioners in the program Program, shall be privileged and confidential, and shall not be disclosed consistent with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Such records shall be used only in the exercise of the proper functions as set forth in this chapter and shall not be

60 public records nor shall such records be subject to court order, except as provided in subdivision C 4  
61 below, or be subject to discovery or introduction as evidence in any civil, criminal, or administrative  
62 proceedings except those conducted by a health regulatory board.

63 C. Notwithstanding the provisions of subsection B above and of subdivision 11 of § 2.2-3705.5, the  
64 Committee may disclose such records relative to an impaired practitioner only:

65 1. When disclosure of the information is essential to the monitoring needs of the impaired  
66 practitioner;

67 2. When release of the information has been authorized in writing by the impaired practitioner;

68 3. To a health regulatory board within the Department of Health Professions; or

69 4. When an order by a court of competent jurisdiction has been granted, upon a showing of good  
70 cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In  
71 assessing good cause, the court shall weigh the public interest and the need for disclosure against the  
72 injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the  
73 granting of such order, the court, in determining the extent to which any disclosure of all or any part of  
74 any record is necessary, shall impose appropriate protections against unauthorized disclosures.

75 D. Pursuant to subdivision A 24 of § 2.2-3711, the proceedings of the Committee which in any way  
76 pertain or refer to a specific practitioner who may be, or who is actually, impaired and who may be or  
77 is, by reason of such impairment, subject to disciplinary action by the relevant board shall be excluded  
78 from the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.) and may be closed. Such  
79 proceedings shall be privileged and confidential.

80 E. The members of the Committee shall be immune from liability resulting from the exercise of the  
81 powers and duties of the Committee as provided in § 8.01-581.13.

82 **§ 54.1-3002. Board of Nursing; membership; terms; meetings; quorum; administrative officer.**

83 The Board of Nursing shall consist of ~~thirteen~~ 14 members as follows: ~~seven~~ eight registered nurses,  
84 at least ~~one~~ two of whom ~~is a~~ are licensed nurse practitioner practitioners; three licensed practical  
85 nurses; and three citizen members. The terms of office of the Board shall be four years.

86 The Board shall meet each January and shall elect from its membership a president, a vice-president,  
87 and a secretary. It may hold such other meetings as may be necessary to perform its duties. A majority  
88 of the Board including one of its officers shall constitute a quorum for the conduct of business at any  
89 meeting. Special meetings of the Board shall be called by the administrative officer upon written request  
90 of two members.

91 The Board shall have an administrative officer who shall be a registered nurse.

92 **§ 54.1-3503. Board of Counseling.**

93 The Board of Counseling shall regulate the practice of counseling, substance abuse treatment, and  
94 marriage and family therapy.

95 The Board shall consist of ~~14~~ 12 members to be appointed by the Governor, subject to confirmation  
96 by the General Assembly. ~~Twelve~~ Ten members shall be professionals licensed in ~~Virginia the~~  
97 Commonwealth, who shall represent the various specialties recognized in the profession, and two shall  
98 be citizen members. Of the ~~12~~ 10 professional members, six shall be professional counselors, three shall  
99 be clinical fellows of the American Association for Marriage and Family Therapy licensed marriage and  
100 family therapists who have passed the examination for licensure as a marriage and family therapist, and  
101 three one shall be a licensed substance abuse treatment practitioners practitioner. At least two members  
102 representing each specialty shall have been in active practice for at least four years.

103 The terms of the members of the Board shall be four years.