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SENATE BILL NO. 829

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 8, 2018)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend and reenact §§ 2.2-2001.4, 54.1-2901, and 54.1-3001 of the Code of Virginia, relating to military medical personnel program; supervision.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2001.4, 54.1-2901, and 54.1-3001 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2001.4. Military medical personnel; program.

A. For the purposes of this section, "military medical personnel" means an individual who has recently served as a medic in the United States Army, medical technician in the United States Air Force, or corpsman in the United States Navy or the United States Coast Guard and who was discharged or released from such service under conditions other than dishonorable.

B. The Department, in collaboration with the Department of Health Professions, shall establish a ~~pilot~~ program in which military medical personnel may practice and perform certain delegated acts that constitute the practice of medicine ~~under the supervision of a physician or podiatrist who holds an active, unrestricted license in Virginia or nursing in accordance with subsection B of § 54.1-2901 or subsection B of § 54.1-3001.~~ Such activities shall reflect the level of training and experience of the military medical personnel. The supervising physician or podiatrist shall retain responsibility for the care of the patient.

C. Any licensed physician or podiatrist, a professional corporation or partnership of any licensee, any hospital, or any commercial enterprise having medical facilities for its employees that are supervised by one or more physicians or podiatrists may participate in such ~~pilot~~ program.

D. The Department shall establish general requirements for participating military medical personnel, licensees, and employers.

§ 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 in collaboration and consultation with a patient care team physician as part of a patient care team pursuant to § 54.1-2957 or any nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957 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 or osteopathy, a nurse practitioner, or a physician assistant;

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, or from a licensed nurse practitioner, 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

60 or druggists;

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

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

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

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

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

75 16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable
76 regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia
77 temporarily and such practitioner has been issued a temporary authorization by the Board from
78 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
79 camp or in conjunction with patients who are participating in recreational activities, (ii) while
80 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
81 site any health care services within the limits of his license, voluntarily and without compensation, to
82 any patient of any clinic which is organized in whole or in part for the delivery of health care services
83 without charge as provided in § 54.1-106;

84 17. The performance of the duties of any active duty health care provider in active service in the
85 army, navy, coast guard, marine corps, air force, or public health service of the United States at any
86 public or private health care facility while such individual is so commissioned or serving and in
87 accordance with his official military duties;

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

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

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

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

98 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
99 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
100 § 54.1-106;

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

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

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

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

116 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
117 free health care to an underserved population of Virginia who (i) does not regularly practice his
118 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another
119 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to
120 an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer,
121 nonprofit organization that sponsors the provision of health care to populations of underserved people,

(iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

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

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when 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 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

32. 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 from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a ~~pilot~~ program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist *or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.*

§ 54.1-3001. Exemptions.

A. This chapter shall not apply to the following:

1. The furnishing of nursing assistance in an emergency;
2. The practice of nursing, which is prescribed as part of a study program, by nursing students enrolled in nursing education programs approved by the Board or by graduates of approved nursing education programs for a period not to exceed ninety days following successful completion of the nursing education program pending the results of the licensing examination, provided proper application and fee for licensure have been submitted to the Board and unless the graduate fails the licensing examination within the 90-day period;

3. The practice of any legally qualified nurse of another state who is employed by the United States government while in the discharge of his official duties;

4. The practice of nursing by a nurse who holds a current unrestricted license in another state, the District of Columbia, a United States possession or territory, or who holds a current unrestricted license in Canada and whose training was obtained in a nursing school in Canada where English was the primary language, for a period of 30 days pending licensure in Virginia, if the nurse, upon employment, has furnished the employer satisfactory evidence of current licensure and submits proper application and fees to the Board for licensure before, or within 10 days after, employment. At the discretion of the Board, additional time may be allowed for nurses currently licensed in another state, the District of Columbia, a United States possession or territory, or Canada who are in the process of attaining the qualification for licensure in this Commonwealth;

5. The practice of nursing by any registered nurse who holds a current unrestricted license in another

183 state, the District of Columbia, or a United States possession or territory, or a nurse who holds an
184 equivalent credential in a foreign country, while enrolled in an advanced professional nursing program
185 requiring clinical practice. This exemption extends only to clinical practice required by the curriculum;

186 6. The practice of nursing by any nurse who holds a current unrestricted license in another state, the
187 District of Columbia, or a United States possession or territory and is employed to provide care to any
188 private individual while such private individual is traveling through or temporarily staying, as defined in
189 the Board's regulations, in the Commonwealth;

190 7. General care of the sick by nursing assistants, companions or domestic servants that does not
191 constitute the practice of nursing as defined in this chapter;

192 8. The care of the sick when done solely in connection with the practice of religious beliefs by the
193 adherents and which is not held out to the public to be licensed practical or professional nursing;

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

199 10. The practice of nursing by any nurse who is a graduate of a foreign nursing school and has met
200 the credential, language, and academic testing requirements of the Commission on Graduates of Foreign
201 Nursing Schools for a period not to exceed ninety days from the date of approval of an application
202 submitted to the Board when such nurse is working as a nonsupervisory staff nurse in a licensed nursing
203 home or certified nursing facility. During such ninety-day period, such nurse shall take and pass the
204 licensing examination to remain eligible to practice nursing in Virginia; no exemption granted under this
205 subdivision shall be extended;

206 11. The practice of nursing by any nurse rendering free health care to an underserved population in
207 Virginia who (i) does not regularly practice nursing in Virginia, (ii) holds a current valid license or
208 certification to practice nursing in another state, territory, district or possession of the United States, (iii)
209 volunteers to provide free health care to an underserved area of this Commonwealth under the auspices
210 of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to
211 populations of underserved people, (iv) files a copy of the license or certification issued in such other
212 jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary
213 provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that
214 such licensure exemption shall only be valid, in compliance with the Board's regulations, during the
215 limited period that such free health care is made available through the volunteer, nonprofit organization
216 on the dates and at the location filed with the Board. The Board may deny the right to practice in
217 Virginia to any nurse whose license or certificate has been previously suspended or revoked, who has
218 been convicted of a felony or who is otherwise found to be in violation of applicable laws or
219 regulations. However, the Board shall allow a nurse who meets the above criteria to provide volunteer
220 services without prior notice for a period of up to three days, provided the nonprofit organization
221 verifies that the practitioner has a valid, unrestricted license in another state;

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

226 13. The practice of nursing by any nurse who holds a current unrestricted license from another state,
227 the District of Columbia or a United States possession or territory, while such nurse is in the
228 Commonwealth temporarily and is practicing nursing in a summer camp or in conjunction with clients
229 who are participating in specified recreational or educational activities;

230 14. The practice of massage therapy that is an integral part of a program of study by a student
231 enrolled in a massage therapy educational program under the direction of a licensed massage therapist.
232 Any student enrolled in a massage therapy educational program shall be identified as a "Student
233 Massage Therapist" and shall deliver massage therapy under the supervision of an appropriate clinical
234 instructor recognized by the educational program;

235 15. The practice of massage therapy by a massage therapist licensed or certified in good standing in
236 another state, the District of Columbia, or another country, while such massage therapist is volunteering
237 at a sporting or recreational event or activity, is responding to a disaster or emergency declared by the
238 appropriate authority, is travelling with an out-of-state athletic team or an athlete for the duration of the
239 athletic tournament, game, or event in which the team or athlete is competing, or is engaged in
240 educational seminars;

241 16. Any person providing services related to the domestic care of any family member or household
242 member so long as that person does not offer, hold out, or claim to be a massage therapist;

243 17. Any health care professional licensed or certified under this title for which massage therapy is a
244 component of his practice; or

245 18. Any individual who provides stroking of the hands, feet, or ears or the use of touch, words, and
246 directed movement, including healing touch, therapeutic touch, mind-body centering, orthobionomy,
247 traeger therapy, reflexology, polarity therapy, reiki, qigong, muscle activation techniques, or practices
248 with the primary purpose of affecting energy systems of the human body.

249 *B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as*
250 *defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans*
251 *Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or*
252 *podiatrist or the chief medical officer of an organization participating in such program. The chief*
253 *medical officer of an organization participating in a program established pursuant to § 2.2-2001.4 may,*
254 *in consultation with the chief nursing officer of such organization, designate a registered nurse licensed*
255 *by the Board or practicing with a multistate licensure privilege to supervise military personnel*
256 *participating in a program established pursuant to § 2.2-2001.4 in the practice of nursing.*