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HOUSE BILL NO. 2184

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 29, 2019)

(Patron Prior to Substitute—Delegate Kilgore)

A BILL to amend and reenact §§ 54.1-2701 and 54.1-2901 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.3, relating to special volunteer license for limited practice.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2701 and 54.1-2901 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.3 as follows:

§ 54.1-2701. Exemptions.

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;
2. Apply to a nurse practitioner certified by the Board of Nursing and the Board of Medicine except that intraoral procedures shall be performed only under the direct supervision of a licensed dentist;
3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force, Public Health Service, or Department of Veterans Affairs;
4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;
5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia, (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of ~~this the~~ Commonwealth under the auspices of a publicly supported ~~all volunteer~~ *all-volunteer*, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least ~~15~~ *five* 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 all-volunteer~~, nonprofit organization on the dates and at the location filed with the Board. *Clauses (iv), (v), and (vi) shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all-volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the all-volunteer, nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.* The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose license 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; or

6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.

§ 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 accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01 or any nurse practitioner licensed by the Boards of Medicine and Nursing 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 Boards of Medicine and 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

60 usual professional activities;

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

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

70 8. The domestic administration of family remedies;

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

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

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

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

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

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

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

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

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

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

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

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

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

112 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
113 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
114 § 54.1-106;

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

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

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

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

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

28. 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;

29. 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;

30. 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

31. 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 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.

§ 54.1-2928.3. Special volunteer license for limited practice.

A. The Board may issue a special volunteer license for limited practice to any practitioner of the healing arts who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district, or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported, all-volunteer, nonprofit organization that sponsors the

183 provision of health care to populations of underserved people, and (iv) acknowledges, in writing, that
184 the special volunteer license for limited practice shall only be valid, in compliance with the Board's
185 regulations, during the limited period that such free health care is made available through the
186 all-volunteer nonprofit organization on the dates and at the location filed with the Board by the
187 all-volunteer nonprofit organization. The Board shall require an application and relevant documentation
188 before issuing the special volunteer license for limited practice. Applicants for the special volunteer
189 license for limited practice shall not be subject to license fees or the continuing education requirements
190 of the Board. Such license shall be for a period of two years and may be renewed on a biennial basis.

191 B. A nonprofit organization that sponsors the provision of free health care to underserved
192 populations in the Commonwealth shall provide to the Board a list of all individuals to whom a special
193 volunteer license for limited practice has been issued who will participate in a sponsored event, the
194 dates of the event, and the location of the event no later than five days prior to the commencement of
195 the event.

196 C. The Board shall promulgate regulations to implement this section.