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## HOUSE BILL NO. 2334

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 54.1-306 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-306.1, relating to the Department of Professional and Occupational Regulation; enforcement; authority of investigators; recommended case disposition.

Patron—Webert

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

1. That § 54.1-306 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-306.1 as follows:

**§ 54.1-306. Enforcement of laws by Director or investigators; authority of investigators appointed by Director.**

A. The Director or investigators appointed by him shall be sworn to enforce the statutes and regulations pertaining to the Department, the regulatory boards within Subtitle II (§ 54.1-200 et seq.) of this title, and any of the programs which may be in another title of this Code for which any regulatory board within Subtitle II has enforcement responsibility. The Director or investigators appointed by him shall have the authority to investigate violations of the statutes and regulations that the Director is required to enforce *and to recommend to the appropriate regulatory board a final disposition*. The Director or investigators appointed by him shall also have the authority to issue summonses for violations of the statutes and regulations governing the unlicensed practice of professions regulated by the Department. In the event a person issued such a summons fails or refuses to discontinue the unlawful acts or refuses to give a written promise to appear at the time and place specified in the summons, the investigator may appear before a magistrate or other issuing authority having jurisdiction to obtain a criminal warrant pursuant to § 19.2-72. In addition, sworn criminal investigators of the Department's Criminal Investigations section shall be statewide conservators of the peace while engaged in the performance of their official duties.

B. All investigators appointed by the Director are vested with the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this subtitle, or any regulation promulgated pursuant to authority given by this subtitle or in connection with any investigation conducted on behalf of any regulatory board within this subtitle or a program which may be located in another title in this Code. Such investigators are vested with the authority to obtain, serve and execute any warrant, paper or process issued by any court or magistrate or any regulatory board under the authority of the Director and request and receive criminal history information under the provisions of § 19.2-389.

C. Any regulatory board within the Department of Professional and Occupational Regulation may adopt a resolution delegating to the sworn investigators appointed by the Director pursuant to § 54.1-306, the authority to conduct inspections. After conducting an inspection pursuant to the delegation of inspection authority, an investigator may initiate an investigation based on any act, omission, or condition witnessed by the investigator and offer a consent agreement to the regulant to resolve any violation discovered during the inspection, subject to the provisions of subsection B of § 54.1-202. If a consent agreement is offered pursuant to the delegation of authority authorized by this subsection, it shall not become effective until approved by the Director.

**§ 54.1-306.1. Review of complaints; disposition for certain cases.**

A. Every complaint timely filed pursuant to § 54.1-307.1 shall be reviewed by the Director or investigators appointed by the Director to determine if the information contained in the complaint alleges any act or omission of a regulant that is within the jurisdiction of any regulatory board within Subtitle II (§ 54.1-200 et seq.) or any other program for which any regulatory board within Subtitle II has enforcement responsibility. Upon review, if it is determined by the Director or investigators appointed by the Director that a complaint does not allege an act or omission within such jurisdiction, the complaint may be closed without further enforcement action.

B. The Director or investigators appointed by the Director shall investigate every complaint alleging any act or omission of a regulant that is within the jurisdiction of a regulatory board and for which there is a reasonable suspicion to believe that a violation of the statutes and regulations that the Director is required to enforce has occurred. If it is determined during an investigation that the regulant has come into compliance with such statutes and regulations, the investigation may be closed without

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59 *further enforcement action.*

60 *C. Except as provided in subsections A and B, no complaint may be closed at the intake stage,*  
61 *during the investigation, or at the close of an investigation unless such closure has been approved by*  
62 *the appropriate regulatory board.*