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SENATE BILL NO. 1124

Offered January 9, 2019

Prefiled December 27, 2018

A BILL to amend and reenact § 54.1-2901 of the Code of Virginia, relating to telemedicine; physicians licensed in contiguous jurisdictions.

Patron—Favola

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-2901 of the Code of Virginia is amended and reenacted as follows:****§ 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 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 or druggists;

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

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

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

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

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

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

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

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

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

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

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

82 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
83 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
84 § 54.1-106;

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

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

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

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

100 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
101 free health care to an underserved population of Virginia who (i) does not regularly practice his
102 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another
103 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to
104 an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer,
105 nonprofit organization that sponsors the provision of health care to populations of underserved people,
106 (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v)
107 notifies the Board at least five business days prior to the voluntary provision of services of the dates and
108 location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be
109 valid, in compliance with the Board's regulations, during the limited period that such free health care is
110 made available through the volunteer, nonprofit organization on the dates and at the location filed with
111 the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts
112 whose license or certificate has been previously suspended or revoked, who has been convicted of a
113 felony or who is otherwise found to be in violation of applicable laws or regulations. However, the
114 Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer
115 services without prior notice for a period of up to three days, provided the nonprofit organization
116 verifies that the practitioner has a valid, unrestricted license in another state;

117 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens
118 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as
119 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division
120 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; or

33. *Any person licensed to practice medicine or osteopathy who is in good standing with the applicable regulatory agency of a jurisdiction that is contiguous with the Commonwealth from providing health care services to patients located in the Commonwealth through use of telemedicine services as defined in § 38.2-3418.16.*

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.