

2020 SESSION

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HOUSE BILL NO. 982

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 54.1-103 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-100.2 and 54.1-103.1 through 54.1-103.11, relating to professions and occupations; licensure by endorsement.

Patrons—Webert and VanValkenburg

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-103 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-100.2 and 54.1-103.1 through 54.1-103.11 as follows:

§ 54.1-100.2. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Active practice" means working for an average of 640 hours per year.

"Government certification" means a voluntary, government-granted, and nontransferable recognition to an individual who meets certain qualifications related to a lawful occupation. Upon the government's initial and continuing approval, the individual may use "government certified" or "state certified" as a title. A non-certified individual may also perform the lawful occupation for compensation but may not use the title "government certified" or "state certified." In this chapter, the term "government certification" is not synonymous with "occupational license" and does not include credentials, such as those used for a medical board certification or held by a certified public accountant, that are prerequisites to working lawfully in an occupation.

"Lawful occupation" means a course of conduct, pursuit, or profession that includes the sale of goods or services that are not themselves illegal to sell, irrespective of whether the individual selling them is subject to an occupational license.

"Occupational license" means a nontransferable authorization for an individual to perform exclusively a lawful occupation based on meeting certain qualifications pursuant to law. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform the occupation.

"Other state" or "another state" means any territory or possession of the United States, the District of Columbia, or a state in the United States other than the Commonwealth.

"Private certification" means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets certain qualifications and standards relevant to performing the occupation as determined by the private organization. The individual may use the designated title of "certified," as permitted by the private organization.

"Scope of practice" means the procedures, actions, processes, and work that an individual may perform under an occupational license or government certification issued in the Commonwealth.

§ 54.1-103. Additional training of regulated individuals; reciprocity.

A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.

B. The regulatory boards may enter into agreements with other jurisdictions for the recognition of certificates and licenses issued by other jurisdictions.

C. The regulatory boards are authorized to promulgate regulations recognizing licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.

§ 54.1-103.1. Licensure by endorsement; another state's license.

A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions shall, upon application by an individual, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual holds a current and valid occupational license or government certification in another state in a lawful occupation with a similar scope of practice, as determined by the board in the Commonwealth;

2. The individual has held the occupational license or government certification in the other state and has engaged in active practice for at least one year;

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59 3. The board in the other state required the individual to pass an examination, or to meet certain
60 standards related to education, training, or experience;

61 4. The board in the other state holds the individual in good standing;

62 5. The individual does not have a disqualifying criminal record under state law, as determined by
63 the board in the Commonwealth;

64 6. No board in another state revoked the individual's occupational license or government
65 certification because of negligence or intentional misconduct related to the individual's work in the
66 occupation;

67 7. The individual did not surrender an occupational license or government certification because of
68 negligence or intentional misconduct related to the individual's work in the occupation in another state;

69 8. The individual does not have a complaint, allegation, or investigation relating to unprofessional
70 conduct or an alleged crime that is pending before a board in another state. If the individual has a
71 complaint, allegation, or investigation pending, the board in the Commonwealth shall not issue or deny
72 an occupational license or government certification to the individual until the complaint, allegation, or
73 investigation is resolved or the individual otherwise meets the criteria for an occupational license or
74 government certification in the Commonwealth to the satisfaction of the board in the Commonwealth;
75 and

76 9. The individual pays all applicable fees pursuant to § 54.1-103.9.

77 B. If another state issued the individual a government certification but the Commonwealth requires
78 an occupational license to work, the board in the Commonwealth shall, upon application, issue an
79 occupational license to the individual if the individual otherwise satisfies the requirements in subsection
80 A.

81 **§ 54.1-103.2. Licensure by endorsement; work experience.**

82 The regulatory boards within the Department of Professional and Occupational Regulation and the
83 Department of Health Professions shall, upon application by an individual, recognize work experience in
84 another state as fulfillment of qualifications for licensure or government certification in the
85 Commonwealth if the following conditions are met:

86 1. The individual worked in another state that does not use an occupational license or government
87 certification to regulate a lawful occupation, but the Commonwealth uses an occupational license or
88 government certification to regulate a lawful occupation with a similar scope of practice, as determined
89 by the board;

90 2. The individual has engaged in active practice for at least three years in the lawful occupation;
91 and

92 3. The individual satisfies the conditions outlined in subdivisions A 5 through 9 of § 54.1-103.1.

93 **§ 54.1-103.3. Licensure by endorsement; private certification.**

94 The regulatory boards within the Department of Professional and Occupational Regulation and the
95 Department of Health Professions shall, upon application by an individual, recognize private
96 certification in another state as fulfillment of qualifications for licensure or government certification in
97 the Commonwealth if the following conditions are met:

98 1. The individual holds a private certification and worked in another state that does not use an
99 occupational license or government certification to regulate a lawful occupation, but the Commonwealth
100 uses an occupational license or government certification to regulate a lawful occupation with a similar
101 scope of practice, as determined by the board;

102 2. The individual has engaged in active practice for at least two years in the lawful occupation;

103 3. The individual holds a current and valid private certification in the lawful occupation;

104 4. The private certifying organization holds the individual in good standing; and

105 5. The individual satisfies subdivisions A 5 through 9 of § 54.1-103.1.

106 **§ 54.1-103.4. State law examination.**

107 The regulatory boards within the Department of Professional and Occupational Regulation or the
108 Department of Health Professions may require an individual to pass a jurisprudential examination
109 specific to relevant state laws that regulate the occupation if an occupational license or government
110 certification in the Commonwealth requires an individual to pass a jurisprudential examination specific
111 to relevant state statutes and administrative rules that regulate the occupation.

112 **§ 54.1-103.5. Decision.**

113 A regulatory board will provide an individual with a written decision regarding his application
114 submitted pursuant to §§ 54.1-103.1, 54.1-103.2, or 54.1-103.3 within 60 days of receipt of a complete
115 application.

116 **§ 54.1-103.6. Appeal.**

117 A. An individual may appeal the decision of a regulatory board made pursuant to § 54.1-103.5 to a
118 court of general jurisdiction.

119 B. The individual may appeal the board's (i) denial of an occupational license or government
120 certification; (ii) determination of the occupation; (iii) determination of the similarity of the scope of

121 practice of the occupational license or government certification issued; or (iv) other determinations
122 made pursuant to §§ 54.1-103.1 through 54.1-103.5.

123 **§ 54.1-103.7. State laws and jurisdiction.**

124 An individual who obtains an occupational license or government certification pursuant to
125 §§ 54.1-103.1 through 54.1-103.5 is subject to (i) the laws regulating the occupation in the
126 Commonwealth and (ii) the jurisdiction of the regulatory board in the Commonwealth.

127 **§ 54.1-103.8. Limitations.**

128 A. An occupational license or government certification issued pursuant to §§ 54.1-103.1 through
129 54.1-103.7 is valid only in the Commonwealth. Such license or certification does not grant the
130 individual eligibility to work in another state under an interstate compact or reciprocity agreement,
131 unless otherwise provided by law.

132 B. Nothing in §§ 54.1-103.1 through 54.1-103.7 shall be construed to:

133 1. Prevent the Commonwealth from entering into a licensing compact or reciprocity agreement with
134 another state, foreign province, or foreign country;

135 2. Prevent the Commonwealth from recognizing occupational credentials issued by a private
136 certifying organization, foreign province, foreign country, international organization, or other entity; or

137 3. Require a private certifying organization to grant or deny private certification to any individual.

138 **§ 54.1-103.9. Cost.**

139 A regulatory board may charge an application fee to an individual, not to exceed \$100 per
140 application, to recoup its costs.

141 **§ 54.1-103.10. Preemption.**

142 The provisions in §§ 54.1-103.1 through 54.1-103.9 shall preempt the laws of any locality that relate
143 to the regulation of occupational licenses and government certifications.

144 **§ 54.1-103.11. Exception.**

145 The provisions in §§ 54.1-103.1 through 54.1-103.10 shall not apply to an occupation regulated by
146 (i) the Supreme Court of Virginia or (ii) the Board of Medicine.