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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-2901, 54.1-2904, and 54.1-3011 of the Code of Virginia, relating to public health emergency; out-of-state licenses; deemed licensure.

[S 369]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2901, 54.1-2904, and 54.1-3011 of the Code of Virginia are 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, 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, or any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J 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 bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

118 of Consolidated Laboratories or other public health laboratories, designated by the State Health
 119 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in
 120 § 32.1-49.1;

121 29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered
 122 nurse under his supervision the screening and testing of children for elevated blood-lead levels when
 123 such testing is conducted (i) in accordance with a written protocol between the physician or nurse
 124 practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations
 125 promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be
 126 conducted at the direction of a physician or nurse practitioner;

127 30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good
 128 standing with the applicable regulatory agency in another state or Canada from engaging in the practice
 129 of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or
 130 athlete for the duration of the athletic tournament, game, or event in which the team or athlete is
 131 competing;

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

136 32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good
 137 standing with the applicable regulatory agency in another state from engaging in the practice of that
 138 profession in Virginia with a patient who is being transported to or from a Virginia hospital for care; or

139 33. Any practitioner of a profession regulated by the Board of Medicine who is licensed in another
 140 state or the District of Columbia and who is in good standing with the applicable regulatory agency in
 141 that state or the District of Columbia from engaging in the practice of that profession in the
 142 Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of
 143 providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and
 144 (ii) the patient is a current patient of the practitioner with whom the practitioner has previously
 145 established a practitioner-patient relationship and the practitioner has performed an in-person
 146 examination of the patient within the previous 12 months. For the purposes of this subdivision, if a
 147 patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty
 148 group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of
 149 at least one practitioner who is a member of the multispecialty group with whom such practitioner has
 150 previously established a practitioner-patient relationship and of whom such practitioner has performed
 151 an in-person examination within the previous 12 months, the patient shall be deemed to be a current
 152 patient of each practitioner in the multispecialty group with whom each such practitioner has
 153 established a practitioner-patient relationship.

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

159 **§ 54.1-2904. Biennial renewal of licenses; copies; fee; lapsed licenses; reinstatement; penalties.**

160 A. Every license granted under the provisions of this chapter shall be renewed biennially as
 161 prescribed by the Board. The Board shall send by mail or electronically notice for renewal of a license
 162 to every licensee. Failure to receive such notice shall not excuse any licensee from the requirements of
 163 renewal. The person receiving such notice shall furnish the information requested and submit the
 164 prescribed renewal fee to the Board. Copies of licenses may be obtained as provided in the Board's
 165 regulations.

166 B. Any licensee who allows his license to lapse by failing to renew the license or failing to meet
 167 professional activity requirements stipulated in the regulations may be reinstated by the Board upon
 168 submission of evidence satisfactory to the Board that he is prepared to resume practice in a competent
 169 manner and upon payment of the prescribed fee.

170 C. Any person practicing during the time his license has lapsed shall be considered an illegal
 171 practitioner and shall be subject to the penalties for violation of this chapter.

172 D. When the Board of Health has issued an emergency order pursuant to § 32.1-13, the Board may
 173 waive (i) the requirement for submission of a fee for renewal or reinstatement of a license to practice
 174 medicine or osteopathic medicine or as a physician assistant or nurse practitioner and (ii) the
 175 requirement for submission of evidence satisfactory to the Board that a practitioner whose license was
 176 allowed to lapse for failure to meet professional activity requirements has satisfied such requirements
 177 and is prepared to resume practice in a competent manner for any person who held a valid,
 178 unrestricted, active license to practice such profession within the four-year period immediately prior to

179 *the application for renewal or reinstatement of such license.*

180 **§ 54.1-3011. Renewal of licenses; lapsed licenses; reinstatement; penalties.**

181 A. Every license issued under the provisions of this chapter shall be renewed biennially by such time
182 as the Board may prescribe by regulation. The Board shall mail or send electronically a notice for
183 renewal to every licensee, but the failure to receive such notice shall not excuse any licensee from the
184 requirements for renewal. The person receiving such notice shall furnish the requested information and
185 return the form to the Board with the renewal fee.

186 B. Any licensee who allows his license to lapse by failing to renew the license may be reinstated by
187 the Board upon submission of satisfactory evidence that he is prepared to resume practice in a
188 competent manner and upon payment of the fee.

189 C. Any person practicing nursing during the time his license has lapsed shall be considered an illegal
190 practitioner and shall be subject to the penalties provided for violations of this chapter.

191 D. *When the Board of Health has issued an emergency order pursuant to § 32.1-13, the Board may*
192 *waive (i) the requirement for submission of a fee for renewal of a license or (ii) the requirement for*
193 *submission of evidence satisfactory to the Board that a licensee whose license was allowed to lapse by*
194 *failing to renew his license is prepared to resume practice in a competent manner for any person who*
195 *held a valid, unrestricted, active license to practice nursing within the four-year period immediately*
196 *prior to the application for renewal of such license.*