

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 558

An Act to amend and reenact §§ 2.1-1.6, 9-6.25:1, 54.1-3505 and 65.2-603 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 35 of Title 54.1 an article numbered 2, consisting of sections numbered 54.1-3510 through 54.1-3514, establishing the Advisory Board on Rehabilitation Providers.

[H 733]

Approved April 9, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6, 9-6.25:1, 54.1-3505 and 65.2-603 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 35 of Title 54.1 an article numbered 2, consisting of sections numbered 54.1-3510 through 54.1-3514, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for
Aging, Advisory Board on the
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
Art and Architectural Review Board
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catoctin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Certified Seed Board, State
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of
Cosmetology, Board for
Criminal Justice Services Board
Dark-Fired Tobacco Board, Virginia
Deaf and Hard-of-Hearing, Advisory Board for the Department for the
Dentistry, Board of
Education, State Board of
Egg Board, Virginia
Emergency Medical Services Advisory Board
Employment Agency Advisory Board
Farmers Market Board, Virginia

Film Office Advisory Board
 Fire Services Board, Virginia
 Forensic Science Advisory Board
 Forestry, Board of
 Funeral Directors and Embalmers, Board of
 Game and Inland Fisheries, Board of
 Geology, Board for
 Goose Creek Scenic River Advisory Board
 Health Planning Board, Virginia
 Health Professions, Board of
 Health, State Board of
 Hearing Aid Specialists, Board for
 Hemophilia Advisory Board
 Historic Resources, Board of
 Housing and Community Development, Board of
 Industrial Development Services Advisory Board
 Insurance Advisory Board, State
 Irish Potato Board, Virginia
 Laboratory Services Advisory Board
 Marine Products Board, Virginia
 Medical Advisory Board, Department of Motor Vehicles
 Medical Board of the Virginia Retirement System
 Medicare and Medicaid, Advisory Board on
 Medicine, Board of
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Migrant and Seasonal Farmworkers Board
 Military Affairs, Board of
 Mines, Minerals and Energy, Board of Examiners in the Department of
 Minority Business Enterprise, Interdepartmental Board of the Department of
 Motor Vehicle Dealers' Advisory Board
 Networking Users Advisory Board, State
 Nottoway State Scenic River Advisory Board
 Nursing, Board of
 Nursing Home Administrators, Board of
 Occupational Therapy, Advisory Board on
 Oil and Gas Conservation Board, Virginia
 Opticians, Board for
 Optometry, Board of
 Peanut Board, Virginia
 Personnel Advisory Board
 Pesticide Control Board
 Pharmacy, Board of
 (Delayed effective date) Physical Fitness and Sports, Virginia Board on
 Physical Therapy to the Board of Medicine, Advisory Board on
 Plant Pollination Advisory Board
 Polygraph Examiners Advisory Board
 Pork Industry Board, Virginia
 Poultry Products Board, Virginia
 Private College Advisory Board
 Private Security Services Advisory Board
 Professional and Occupational Regulation, Board for
 Professional Counselors, Board of
 Professional Soil Scientists, Board for
 Psychiatric Advisory Board
 Psychology, Board of
 Public Buildings Board, Virginia
 Public Telecommunications Board, Virginia
 Radiation Advisory Board
 Real Estate Appraiser Board
 Real Estate Board
 Reciprocity Board, Department of Motor Vehicles
 Recreational Fishing Advisory Board, Virginia
 Recreation Specialists, Board of
 Reforestation Board

Rehabilitation Providers, Advisory Board on
 Rehabilitative Services, Board of
 Respiratory Therapy, Advisory Board on
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Safety and Health Codes Board
 Seed Potato Board
 Sewage Handling and Disposal Appeal Review Board, State Health Department
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 Small Grains Board, Virginia
 Social Services, Board of
 Social Work, Board of
 Soil and Water Conservation Board, Virginia
 Soybean Board, Virginia
 State Air Pollution Control Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Sweet Potato Board, Virginia
 Teacher Education and Licensure, Advisory Board on
 Tourism and Travel Services Advisory Board
 Toxic Substances Advisory Board
 Transportation Board, Commonwealth
 Transportation Safety, Board of
 Treasury Board, The, Department of the Treasury
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Board for Asbestos Licensing
 Virginia Employment Commission, State Advisory Board for the
 (Delayed effective date) Virginia Horse Industry Board
 Virginia Manufactured Housing Board
 Virginia Mine Safety Board
 Virginia Retirement System, Board of Trustees
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Voluntary Formulary Board, Virginia
 War Memorial Foundation, Virginia, Board of Trustees
 Waste Management Facility Operators, Board for
 Water Resources Research Center Statewide Advisory Board, Virginia
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, Virginia
 Youth and Family Services, State Board of.

B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be referred to as boards:

Compensation Board
 State Board of Elections
 State Water Control Board
 Virginia Parole Board
 Virginia Veterans Care Center Board of Trustees
 § 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

Advisory Board for the Department for the Deaf and Hard-of-Hearing
 Advisory Board for the Department for the Aging
 Advisory Board on Child Abuse and Neglect
 Advisory Board on Medicare and Medicaid
 Advisory Board on Occupational Therapy
 Advisory Board on Physical Therapy to the Board of Medicine
Advisory Board on Rehabilitation Providers
 Advisory Board on Respiratory Therapy to the Board of Medicine
 Advisory Board on Teacher Education and Licensure
 Advisory Council on Revenue Estimates
 Advisory Council on the Virginia Business-Education Partnership Program

Appomattox State Scenic River Advisory Board
 Aquaculture Advisory Board
 Art and Architectural Review Board
 Board for the Visually Handicapped
 Board of Directors, Virginia Truck and Ornamentals Research Station
 Board of Forestry
 Board of Military Affairs
 Board of Rehabilitative Services
 Board of Transportation Safety
 Board of Trustees of the Family and Children's Trust Fund
 Board of Visitors, Gunston Hall Plantation
 Board on Veterans' Affairs
 Catoctin Creek State Scenic River Advisory Board
 Cave Board
 Chickahominy State Scenic River Advisory Board
 Clinch Scenic River Advisory Board
 Coal Surface Mining Reclamation Fund Advisory Board
 Council on Indians
 Council on the Status of Women
 Emergency Medical Services Advisory Board
 Falls of the James Committee
 Film Office Advisory Board
 Forensic Science Advisory Board
 Goose Creek Scenic River Advisory Board
 Governor's Council on Alcohol and Drug Abuse Problems
 Governor's Mined Land Reclamation Advisory Committee
 Hemophilia Advisory Board
 Human Services Information and Referral Advisory Council
 Industrial Development Services Advisory Board
 Interagency Coordinating Council on Housing for the Disabled
 Interdepartmental Board of the State Department of Minority Business Enterprise
 Laboratory Services Advisory Board
 Local Advisory Board to the Blue Ridge Community College
 Local Advisory Board to the Central Virginia Community College
 Local Advisory Board to the Dabney S. Lancaster Community College
 Local Advisory Board to the Danville Community College
 Local Advisory Board to the Eastern Shore Community College
 Local Advisory Board to the Germanna Community College
 Local Advisory Board to the J. Sargeant Reynolds Community College
 Local Advisory Board to the John Tyler Community College
 Local Advisory Board to the Lord Fairfax Community College
 Local Advisory Board to the Mountain Empire Community College
 Local Advisory Board to the New River Community College
 Local Advisory Board to the Northern Virginia Community College
 Local Advisory Board to the Patrick Henry Community College
 Local Advisory Board to the Paul D. Camp Community College
 Local Advisory Board to the Piedmont Virginia Community College
 Local Advisory Board to the Rappahannock Community College
 Local Advisory Board to the Southwest Virginia Community College
 Local Advisory Board to the Thomas Nelson Community College
 Local Advisory Board to the Tidewater Community College
 Local Advisory Board to the Virginia Highlands Community College
 Local Advisory Board to the Virginia Western Community College
 Local Advisory Board to the Wytheville Community College
 Long-Term Care Council
 Maternal and Child Health Council
 Medical Advisory Board, Department of Motor Vehicles
 Medical Board of the Virginia Retirement System
 Migrant and Seasonal Farmworkers Board
 Motor Vehicle Dealer's Advisory Board
 Nottoway State Scenic River Advisory Board
 Personnel Advisory Board
 Plant Pollination Advisory Board
 Private College Advisory Board

Private Enterprise Commission
 Private Security Services Advisory Board
 Psychiatric Advisory Board
 Radiation Advisory Board
 Rappahannock Scenic River Advisory Board
 Recreational Fishing Advisory Board, Virginia
 Reforestation Board
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 St. Mary's Scenic River Advisory Committee
 State Advisory Board on Air Pollution
 State Advisory Board for the Virginia Employment Commission
 State Building Code Technical Review Board
 State Council on Local Debt
 State Health Benefits Advisory Council
 State Insurance Advisory Board
 State Land Evaluation Advisory Council
 State Networking Users Advisory Board
 State Public Records Advisory Council
 Staunton Scenic River Advisory Committee
 Telecommunications Relay Service Advisory Board
 Tourism and Travel Services Advisory Board
 Toxic Substances Advisory Board
 Virginia Advisory Commission on Intergovernmental Relations
 Virginia Advisory Council for Adult Education and Literacy
 Virginia Board on Physical Fitness and Sports
 Virginia Coal Research and Development Advisory Board
 Virginia Commission for the Arts
 Virginia Commission on the Bicentennial of the United States Constitution
 Virginia Council on Coordinating Prevention
 Virginia Equal Employment Opportunity Council
 Virginia Interagency Coordinating Council
 Virginia Military Advisory Council
 Virginia Mine Safety Board
 Virginia Public Buildings Board
 Virginia Recycling Markets Development Council
 Virginia Transplant Council
 Virginia Water Resources Research Center, Statewide Advisory Board
 Virginia Winegrowers Advisory Board.

§ 54.1-3505. Specific powers and duties of the Board.

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.
2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.
3. To designate specialties within the profession.
4. *To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.*

Article 2.

Advisory Board on Rehabilitation Providers.

§ 54.1-3510. Definitions.

As used in this article, unless the context requires a different meaning:

"Advisory Board" means the Advisory Board on Rehabilitation Providers.

"Rehabilitation services" means and includes evaluation, assessment, training services, services to family members, interpreter services, rehabilitation teaching, coordination of telecommunications, placement in suitable employment, post-employment services and other related services provided to a person with a disability for the purpose of restoring the person's productive capacity.

"Rehabilitation provider" or "provider" means a person who, functioning within the scope of his practice, performs, coordinates, manages or arranges for rehabilitation services.

§ 54.1-3511. Advisory Board on Rehabilitation Providers.

The Advisory Board shall consist of ten members. One member each shall be appointed by the Boards of Medicine, Nursing, Professional Counselors, Psychology, and Social Work from their respective membership. The Board of Health Professions shall appoint the remaining five members, two of whom shall be members of other boards referred to in § 54.1-2503 and three of whom shall be certified under this act as rehabilitation providers, except that the rehabilitation providers initially appointed to the board shall not be required to be certified. Members shall serve four-year terms, except that the term of any member who is a member of a board referred to in § 54.1-2503 shall expire contemporaneous with the expiration of his term on such board. Vacancies shall be filled in the same manner as original appointments.

§ 54.1-3512. Powers and duties of Advisory Board.

A. The Advisory Board shall:

1. Recommend to the Boards of Medicine, Nursing, Professional Counselors, Psychology, and Social Work regulatory criteria for the voluntary certification of their licensees who provide rehabilitation services and for standards of conduct of licensees so certified.

2. Recommend to the Board of Professional Counselors regulatory criteria for certification and for standards of professional conduct of persons who provide rehabilitative services but who are exempt from licensure as professional counselors under subdivision 1 of § 54.1-3501.

3. Assist the Boards of Medicine, Nursing, Professional Counselors, Psychology, and Social Work in all matters pertaining to rehabilitation services as they may request.

B. The criteria for certification and standards of professional conduct recommended by the Advisory Board shall be only those it finds to be necessary and appropriate to protect the public interest. The Boards of Medicine, Nursing, Professional Counselors, Psychology, and Social Work may modify recommended criteria and standards as necessary to make them consistent with regulations applicable to its licensees.

§ 54.1-3513. Restriction of practice; use of titles.

A. No person, other than a person licensed by the Boards of Medicine, Nursing, Optometry, Professional Counselors, Psychology, or Social Work, shall hold himself out as a provider of rehabilitation services or use the title "rehabilitation provider" or a similar title or any abbreviation thereof unless he holds a valid certificate under this article.

B. This section shall not apply to employees or independent contractors of the Commonwealth's agencies and sheltered workshops providing vocational rehabilitation services, provided such employees or independent contractors are not providing vocational rehabilitation services under § 65.2-603.

§ 54.1-3514. Certification of existing providers.

The Board of Professional Counselors, upon receipt of a completed application and payment of the prescribed fee on or before June 30, 1995, shall issue a certificate to any person who was actively engaged in providing rehabilitation services on January 1, 1994.

§ 65.2-603. Duty to furnish medical attention, etc., and vocational rehabilitation; effect of refusal of employee to accept.

A. 1. As long as necessary after an accident, the employer shall furnish or cause to be furnished, free of charge to the injured employee, a physician chosen by the injured employee from a panel of at least three physicians selected by the employer and such other necessary medical attention. Where such accident results in the amputation of an arm, hand, leg, or foot or the enucleation of an eye or the loss of any natural teeth or loss of hearing, the employer shall furnish prosthetic or orthotic appliances, proper fitting thereof, and training in the use thereof, as the nature of the injury may require. In awards entered for incapacity for work, under this title, upon determination by the treating physician and the Commission that the same is medically necessary, the Commission may require that the employer furnish and maintain wheelchairs, bedside lifts, adjustable beds, and modification of the employee's principal home consisting of ramps, handrails, or any appliances prescribed by the treating physician and doorway alterations, provided that the aggregate cost of all such items and modifications required to be furnished on account of any one accident shall not exceed \$25,000. The employee shall accept the attending physician, unless otherwise ordered by the Commission, and in addition, such surgical and hospital service and supplies as may be deemed necessary by the attending physician or the Commission.

2. The employer shall repair, if repairable, or replace dentures, artificial limbs, or other prosthetic or orthotic devices damaged in an accident otherwise compensable under workers' compensation, and furnish proper fitting thereof.

3. The employer shall also furnish or cause to be furnished, at the direction of the Commission, reasonable and necessary vocational rehabilitation services. Vocational rehabilitation services may include vocational evaluation, counseling, job coaching, job development, job placement, on-the-job training, education, and retraining, and shall be provided by a certified rehabilitation provider as provided in Article 2 (§ 54.1-3510 et seq.) of Chapter 35 of Title 54.1 or by a person licensed by the Boards of Medicine, Nursing, Optometry, Professional Counselors, Psychology, or Social Work. In the event a dispute arises, any party may request a hearing and seek the approval of the Commission for the

proposed services. Such services shall take into account the employee's preinjury job and wage classifications; his age, aptitude, and level of education; the likelihood of success in the new vocation; and the relative costs and benefits to be derived from such services.

B. The unjustified refusal of the employee to accept such medical service or vocational rehabilitation services when provided by the employer shall bar the employee from further compensation until such refusal ceases and no compensation shall at any time be paid for the period of suspension unless, in the opinion of the Commission, the circumstances justified the refusal. In any such case the Commission may order a change in the medical or hospital service or vocational rehabilitation services.

C. If in an emergency or on account of the employer's failure to provide the medical care during the period herein specified, or for other good reasons, a physician other than provided by the employer is called to treat the injured employee, during such period, the reasonable cost of such service shall be paid by the employer if ordered so to do by the Commission.

D. As used in this section and in § 65.2-604, the terms "medical attention," "medical service," "medical care," and "medical report" shall be deemed to include chiropractic service or treatment and, where appropriate, a chiropractic treatment report.

E. Whenever an employer furnishes an employee the names of three physicians pursuant to this section, and the employer also assumes all or part of the cost of providing health care coverage for the employee as a self-insured or under a group health insurance policy, health services plan or health care plan, upon the request of an employee, the employer shall also inform the employee whether each physician named is eligible to receive payment under the employee's health care coverage provided by the employer.