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SENATE BILL NO. 721

Offered January 8, 1997

A BILL to amend and reenact §§ 54.1-2708, 54.1-2920, 54.1-3009, and 54.1-3605 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 54.1-2408.1; and to repeal §§ 54.1-3217, 54.1-3317, and 54.1-3808 of the Code of Virginia, relating to the powers and duties of health regulatory boards.

Patron—Barry

Referred to the Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2708, 54.1-2920, 54.1-3009, and 54.1-3605 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2408.1 as follows:

§ 54.1-2408.1. Summary suspension of licenses, certificates or registrations; allegations to be in writing.

A. Any health regulatory board may suspend the license, certificate or registration of any person holding a license, certificate or registration issued by it without a hearing simultaneously with the institution of proceedings for a hearing, if the relevant board finds that there is a substantial danger to the public health or safety which warrants this action. A board may meet by telephone conference call when summarily suspending a license, certificate or registration if a good faith effort to assemble a quorum of the board has failed and, in the judgment of a majority of the members of the board, the continued practice by the individual constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.

B. Allegations of violations of title shall be made in writing to the relevant health regulatory board.

§ 54.1-2708. Disciplinary action discretion.

A. Except in the case of a monetary penalty, the Board may take disciplinary action notwithstanding any action pending before or consummated before any court or any criminal penalty which has been or may be imposed.

B. The Board may suspend the license of any person licensed hereunder, without a hearing simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety which warrants this action. The Board may meet by telephone conference call when summarily suspending a license, if a good faith effort to assemble a quorum of the Board has failed and in the judgment of a majority of the members of the Board, the continued practice of the practitioner constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.

§ 54.1-2920. Notice and opportunity to be heard required before suspension or revocation of license; allegations to be in writing; practice pending appeal; notice to patients.

The Except as provided in § 54.1-2408.1, the Board shall take no action to revoke or suspend the license of any of its licensees except after reasonable notice and an opportunity to be heard in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.). Such action may be in addition to any penalty imposed by law for the violation. For the purposes of this section, reasonable notice means written notice mailed at least thirty days prior to the scheduled hearing.

However, the Board may suspend the license of any person licensed hereunder, without a hearing simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety which warrants this action. The Board may meet by telephone conference call when summarily suspending a license, if a good faith effort to assemble a quorum of the Board has failed and in the judgment of a majority of the members of the Executive Committee, the continued practice of the practitioner constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.

Allegations of violations of this chapter shall be in writing to the Board or any member thereof.

Any practitioner whose license is suspended or revoked by the Board shall not engage in the practice of any of the healing arts in the Commonwealth pending his appeal.

Whenever any license suspension or revocation becomes final, the practitioner shall forthwith give notice of that action, by certified mail, to all patients to whom he is currently providing services. Such

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practitioner shall cooperate with other practitioners to ensure continuation of treatment in conformity with the wishes of the patient. Such practitioner shall also notify any hospitals or other facilities where he is currently granted privileges, and any health insurance companies, health insurance administrators or health maintenance organizations currently reimbursing him for any of the healing arts.

§ 54.1-3009. Authority to require certain evidence and examinations.

~~A. An allegation against a licensee or certificate holder shall be made in writing to the Board.~~

~~B. The Board may suspend a license or certificate without a hearing, simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety which warrants such action. The Board may meet by telephone conference call when summarily suspending a license or certificate, if a good faith effort to assemble a quorum of the Board has failed and in the judgment of the officers of the Board, the licensee's or certificate holder's continued practice constitutes a substantial danger to public health or safety.~~

~~Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.~~

~~C. The Board may direct any licensee or certificate holder under a disciplinary order to furnish it at such intervals as it may require, evidence that he is not practicing in violation of this chapter. In addition, when the Board has probable cause to believe the licensee or certificate holder unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the Board, after preliminary investigation by informal conference, may direct that the licensee or certificate holder submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any licensee or certificate holder affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients.~~

§ 54.1-3605. Powers and duties of the Board.

In addition to the powers granted in ~~§ 54.1-2400~~ *other provisions of this title*, 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 issue a temporary license for such periods as the Board may prescribe to practice psychology to persons who are engaged in a residency or pursuant to subdivision 7 of § 54.1-3601.

5. (Effective until July 1, 1999) To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers. In promulgating such regulations, the Board shall consider the standards recommended by the Advisory Committee on Certified Practices pursuant to § 54.1-3610. The provisions of this subdivision shall expire on July 1, 1999.

6. (Effective until July 1, 1999) To administer the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure under subdivision 4 of §§ 54.1-3501, 54.1-3601 or § 54.1-3701 and to promulgate regulations governing such mandatory certification. The regulations shall include provisions for fees for application processing, certification qualifications, certification issuance and renewal and disciplinary action. The provisions of this subdivision shall expire on July 1, 1999.

~~7. The Board may suspend the license of any person licensed hereunder, without a hearing simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety which warrants this action. The Board may meet by telephone conference call when summarily suspending a license, if a good faith effort to assemble a quorum of the Board has failed and, in the judgment of a majority of the members of the Board, the continued practice of psychology by the practitioner constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.~~

2. That §§ 54.1-3217, 54.1-3317, and 54.1-3808 are repealed.