

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 580

An Act to amend and reenact § 54.1-2914 of the Code of Virginia, relating to unprofessional conduct.

[H 1311]

Approved April 15, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2914 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2914. Unprofessional conduct.

A. Any practitioner of the healing arts regulated by the Board shall be considered guilty of unprofessional conduct if he:

1. Undertakes in any manner or by any means whatsoever to procure or perform or to aid or abet in procuring or performing a criminal abortion;

2. Engages in the practice of any of the healing arts under a false or assumed name, or impersonates another practitioner of a like, similar or different name;

3. Prescribes or dispenses any controlled substance with intent or knowledge that it will be used otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with respect to the sale, use or disposition of such drug;

4. Violates provisions of this chapter on division of fees or practices any branch of the healing arts in violation of the provisions of this chapter;

5. Being a practitioner of physical therapy, undertakes to practice physical therapy, independently of the referral and direction of a duly licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery;

6. Being a licensed physical therapist assistant, undertakes to practice independently without direction of a physical therapist or under his supervision or control;

7. Knowingly and willfully commits any act which is a felony under the laws of this Commonwealth or the United States, or any act which is a misdemeanor under such laws and involves moral turpitude;

8. Aids or abets, has professional connection with, or lends his name to any person known to him to be practicing illegally any of the healing arts;

9. Conducts his practice in a manner contrary to the standards of ethics of his branch of the healing arts;

10. Conducts his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;

11. Is unable to practice with reasonable skill or safety because of illness or substance abuse;

12. Publishes in any manner an advertisement relating to his professional practice which contains a claim of superiority or violates Board regulations governing advertising;

13. Performs any act likely to deceive, defraud or harm the public;

14. Violates any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing or administration of drugs;

15. Violates or cooperates with others in violating any of the provisions of this chapter or regulations of the Board; or

16. Engages in sexual contact with a patient concurrent with and by virtue of the practitioner/patient relationship or otherwise engages at any time during the course of the practitioner/patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive.

B. A practitioner of the healing arts shall not engage in selling controlled substances unless he is licensed to do so by the Board of Pharmacy. However, this prohibition shall not apply to a doctor of medicine, osteopathy or podiatry who administers controlled substances to his patients or provides controlled substances to his patient in a bona fide medical emergency or when pharmaceutical services are not available. Practitioners who sell or dispense controlled substances shall be subject to inspection by the Department of Health Professions to ensure compliance with Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of this title and the Board of Pharmacy's regulations. This subsection shall not apply to physicians acting on behalf of the Virginia Department of Health or local health departments.

C. A practitioner of the healing arts who may lawfully sell medical appliances or devices shall not sell such appliances or devices to persons who are not his own patients and shall not sell such articles to his own patients either for his own convenience or for the purpose of supplementing his income. This subsection shall not apply to physicians acting on behalf of the Virginia Department of Health or local health departments.

D. A practitioner of the healing arts ~~shall not~~ *may, from within the practitioner's office,* engage in selling or promoting the sale of eyeglasses ~~from within his office unless a dispenser of such items is not~~

located within fifteen miles of the practitioner's office. However, a practitioner ~~and~~ may dispense contact lenses. Only those practitioners of the healing arts who engage in the examination of eyes and prescribing of eyeglasses may engage in the sale or promotion of eyeglasses. Practitioners shall not employ any unlicensed person to fill prescriptions for eyeglasses within the practitioner's office except as provided in subdivision 6 of § 54.1-2901. A practitioner may also own, in whole or in part, an optical dispensary located adjacent to or at a distance from his office, and may dispense contact lenses to his patients from within his office. Further, practitioners shall not employ unlicensed persons to fill prescriptions for eyeglasses.

E. Any practitioner of the healing arts engaging in the examination of eyes and prescribing of eyeglasses shall give the patient a copy of any prescription for eyeglasses and inform the patient of his right to have the prescription filled at the establishment of his choice. No practitioner who owns, in whole or in part, an establishment dispensing eyeglasses shall make any statement or take any action, directly or indirectly, that infringes on the patient's right to have a prescription filled at an establishment other than the one in which the practitioner has an ownership interest. In addition, no practitioner shall offer any inducement, take any action or make any statement to encourage the patient to have a prescription filled at the establishment in which the practitioner has an ownership interest unless such inducement, action or statement is offered on the same terms to the general public.

Disclosure of ownership interest by a practitioner as required by § 54.1-2964 or participation by the practitioner in contractual arrangements with third-party payors or purchasers of vision care services shall not constitute a violation of this subsection.