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SENATE BILL NO. 422

Offered January 11, 2006

Prefiled January 11, 2006

A *BILL to amend and reenact § 54.1-2901 of the Code of Virginia, relating to exceptions and exemptions to licensure requirements of practitioners of natural foods and products by health regulatory boards.*

 Patron—Lucas

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-2901 of the Code of Virginia is 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 under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of 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;

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 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 bracer or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracer or prosthetist has received a prescription from a licensed physician 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 ministrations 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;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary license or certification by the Board from

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59 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
60 camp or in conjunction with patients who are participating in recreational activities, (ii) while
61 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
62 site any health care services within the limits of his license, voluntarily and without compensation, to
63 any patient of any clinic which is organized in whole or in part for the delivery of health care services
64 without charge as provided in § 54.1-106;

65 17. The performance of the duties of any commissioned or contract medical officer, or podiatrist in
66 active service in the army, navy, coast guard, marine corps, air force, or public health service of the
67 United States while such individual is so commissioned or serving;

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

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

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

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

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

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

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

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

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

96 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
97 free health care to an underserved population of Virginia who (i) does not regularly practice his
98 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another
99 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to
100 an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer,
101 nonprofit organization with no paid employees that sponsors the provision of health care to populations
102 of underserved people throughout the world, (iv) files a copy of the license or certification issued in
103 such other jurisdiction with the Board, (v) notifies the Board at least 15 days prior to the voluntary
104 provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that
105 such licensure exemption shall only be valid, in compliance with the Board's regulations, during the
106 limited period that such free health care is made available through the volunteer, nonprofit organization
107 on the dates and at the location filed with the Board. The Board may deny the right to practice in
108 Virginia to any practitioner of the healing arts whose license or certificate has been previously
109 suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation
110 of applicable laws or regulations;

111 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens
112 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as
113 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division
114 of Consolidated Laboratories or other public health laboratories, designated by the State Health
115 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in
116 § 32.1-49.1;

117 29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered
118 nurse under his supervision the screening and testing of children for elevated blood-lead levels when
119 such testing is conducted (i) in accordance with a written protocol between the physician or nurse
120 practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations

promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner; or

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

B. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife may practice without the requirement for physician supervision while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

C. Notwithstanding any provision of law or regulation to the contrary, any practitioner of natural foods and products, who provides health care services and healing therapies and methods by assessing, evaluating, advising, educating, counseling, informing, or rendering care to consumers regarding the use or benefits of natural foods, dietary supplements, healing therapies, homeopathic remedies and products, and natural therapies for the prevention, remedy, or treatment of various health or physical conditions, who does not hold a license, certification, or registration pursuant to this title, and who advertises or charges a fee for such services, may render such care if the practitioner:

1. Posts in the interior premises of his facility with prominent signs stating: "The provider is not a licensed health care practitioner in the Commonwealth and does not have a medical education, recognized health care training, or a license, certificate, or registration issued by the Board of Medicine or any other health regulatory board within the Department of Health Professions." This sign shall also indicate (i) the practitioner's name, business address, and telephone number, academic degrees, training, experience, or other credentials and qualifications, if any; and (ii) the types of authorized health care services that may be provided;

2. Renders such care in the absence of gross negligence or willful misconduct;

3. Prior to rendering such services to any consumer for the first time, furnishes a copy of the disclosure statement in writing to the consumer and obtains a signed written acknowledgment from the consumer that he has received a copy of such statement; and

4. Maintains a copy of the consumer's signed written acknowledgment in his files for not less than two years.

This subsection shall not be construed as prohibiting or limiting any practitioner of natural foods and products from advertising, marketing, selling, or distributing natural foods, dietary supplements, healing therapies, homeopathic remedies and products, and natural therapies for the prevention, remedy, or treatment of various health or physical conditions. However, such practitioners shall be subject to all state and federal laws and regulations governing the sale, manufacture, or distribution of any food, food products, drugs, or devices.

For purposes of this subsection, "practitioner of natural foods and products" means any person, who assesses, evaluates, advises, counsels, educates, informs, or renders care to consumers regarding the use or benefits of, or who advertises, markets, sells, or distributes to consumers, natural foods, dietary supplements, healing therapies, homeopathic remedies and products, or natural therapies for the prevention, remedy, or treatment of various health or physical conditions.