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HOUSE BILL NO. 562

House Amendments in [] — January 28, 2016

A *BILL to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, 54.1-3000, 54.1-3001, 54.1-3005, 54.1-3005.1, 54.1-3008, 54.1-3029, and 54.1-3029.1 of the Code of Virginia, relating to licensure of massage therapists.*

Patron Prior to Engrossment—Delegate Robinson

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, as it is currently effective and as it shall become effective; 54.1-3000, 54.1-3001, 54.1-3005, 54.1-3005.1, 54.1-3008, 54.1-3029, and 54.1-3029.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. (Effective until July 1, 2018) Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club

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59 because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)
60 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided
61 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being
62 conducted while such gaming is being conducted and that no alcoholic beverages are made available
63 upon the premises to any person who is neither a member nor a bona fide guest of a member.

64 Any such corporation or association which has been declared exempt from federal and state income
65 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a
66 nonprofit corporation or association.

67 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding
68 alcoholic beverages.

69 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains
70 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,
71 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with
72 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility
73 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied
74 the grapes, fruits, or other agricultural products used in the production of the wine. The contract
75 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have
76 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm
77 winery for its services.

78 "Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent
79 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
80 intended for human consumption consisting of a variety of such items of the types normally sold in
81 grocery stores.

82 "Day spa" means any commercial establishment that offers to the public both massage therapy,
83 performed by persons ~~certified~~ *licensed* in accordance with § 54.1-3029, and barbering or cosmetology
84 services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

85 "Designated area" means a room or area approved by the Board for on-premises licensees.

86 "Dining area" means a public room or area in which meals are regularly served.

87 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
88 manufactured, sold, or used.

89 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
90 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
91 premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol
92 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
93 area or agreements for purchasing grapes or other fruits from agricultural growers within the
94 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
95 lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery"
96 includes an accredited public or private institution of higher education provided that (a) no wine
97 manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used
98 solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored
99 on the premises of such farm winery that shall be separate and apart from all other facilities of the
100 institution, and (d) such farm winery is operated in strict conformance with the requirements of this
101 sentence and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include
102 a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the
103 event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes
104 all of the land owned or leased by the individual members of the cooperative as long as such land is
105 located in the Commonwealth.

106 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
107 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
108 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
109 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
110 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
111 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
112 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
113 considered a gift shop.

114 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
115 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
116 persons facilities for manufacturing, fermenting and bottling such wine or beer.

117 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
118 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
119 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
120 furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats

182 which are not licensed by the Board and on which alcoholic beverages are not sold.

183 "Residence" means any building or part of a building or structure where a person resides, but does
184 not include any part of a building which is not actually and exclusively used as a private residence, nor
185 any part of a hotel or club other than a private guest room thereof.

186 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
187 located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation
188 with voluntary membership which, as its primary function, makes available golf, ski and other
189 recreational facilities both to its members and the general public. The hotel or corporation shall have a
190 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board
191 may consider the purpose, characteristics, and operation of the applicant establishment in determining
192 whether it shall be considered as a resort complex. All other pertinent qualifications established by the
193 Board for a hotel operation shall be observed by such licensee.

194 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant
195 license, any establishment provided with special space and accommodation, where, in consideration of
196 payment, meals or other foods prepared on the premises are regularly sold.

197 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
198 license, an established place of business (i) where meals with substantial entrees are regularly sold and
199 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such
200 meals for consumption at tables in dining areas on the premises, and includes establishments specializing
201 in full course meals with a single substantial entree.

202 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
203 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
204 beverages.

205 "Sangria" means a drink consisting of red or white wine mixed with some combination of
206 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
207 similar spirits.

208 "Special agent" means an employee of the Department of Alcoholic Beverage Control whom the
209 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

210 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
211 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

212 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable
213 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and
214 gin, or any one or more of the last four named ingredients; but shall not include any such liquors
215 completely denatured in accordance with formulas approved by the United States government.

216 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
217 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
218 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
219 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
220 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
221 alcohol content of 21 percent by volume.

222 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
223 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
224 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
225 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
226 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
227 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

228 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
229 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
230 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
231 such retail licensee.

232 **§ 4.1-100. (Effective July 1, 2018) Definitions.**

233 As used in this title unless the context requires a different meaning:

234 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
235 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic
236 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
237 formulas approved by the government of the United States.

238 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
239 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
240 by inhalation.

241 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
242 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,
243 and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer

and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons ~~certified~~ *licensed* in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

305 "Dining area" means a public room or area in which meals are regularly served.

306 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
307 manufactured, sold, or used.

308 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
309 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
310 premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol
311 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
312 area or agreements for purchasing grapes or other fruits from agricultural growers within the
313 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
314 lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery"
315 includes an accredited public or private institution of higher education provided that (a) no wine
316 manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used
317 solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored
318 on the premises of such farm winery that shall be separate and apart from all other facilities of the
319 institution, and (d) such farm winery is operated in strict conformance with the requirements of this
320 sentence and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include
321 a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the
322 event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes
323 all of the land owned or leased by the individual members of the cooperative as long as such land is
324 located in the Commonwealth.

325 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
326 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
327 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
328 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
329 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
330 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
331 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
332 considered a gift shop.

333 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
334 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
335 persons facilities for manufacturing, fermenting and bottling such wine or beer.

336 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
337 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
338 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
339 furnished to persons.

340 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

341 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
342 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
343 four or more bedrooms. It shall also mean the person who operates such hotel.

344 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
345 pursuant to this title.

346 "Internet wine retailer" means a person who owns or operates an establishment with adequate
347 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone
348 orders are taken and shipped directly to consumers and which establishment is not a retail store open to
349 the public.

350 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
351 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

352 "Licensed" means the holding of a valid license granted by the Authority.

353 "Licensee" means any person to whom a license has been granted by the Authority.

354 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
355 content of 25 percent by volume.

356 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
357 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
358 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
359 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
360 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
361 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved
362 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be
363 sold for on-premises consumption other than by mixed beverage licensees.

364 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for
365 off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen
366 facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

428 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
429 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
430 beverages.

431 "Sangria" means a drink consisting of red or white wine mixed with some combination of
432 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
433 similar spirits.

434 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the
435 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

436 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
437 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

438 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable
439 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and
440 gin, or any one or more of the last four named ingredients; but shall not include any such liquors
441 completely denatured in accordance with formulas approved by the United States government.

442 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
443 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
444 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
445 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
446 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
447 alcohol content of 21 percent by volume.

448 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
449 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
450 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
451 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
452 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
453 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

454 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
455 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
456 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
457 such retail licensee.

458 **§ 54.1-3000. Definitions.**

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

460 "Board" means the Board of Nursing.

461 "Certified nurse aide" means a person who meets the qualifications specified in this article and who
462 is currently certified by the Board.

463 "Clinical nurse specialist" means a person who is registered by the Board in addition to holding a
464 license under the provisions of this chapter to practice professional nursing as defined in this section.
465 Such a person shall be recognized as being able to provide advanced services according to the
466 specialized training received from a program approved by the Board, but shall not be entitled to perform
467 any act that is not within the scope of practice of professional nursing.

468 "~~Certified~~ ~~massage~~ *Massage* therapist" means a person who meets the qualifications specified in this
469 chapter and who is currently ~~certified~~ *licensed* by the Board.

470 "Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of
471 massage and bodywork techniques based on the manipulation or application of pressure to the muscular
472 structure or soft tissues of the human body. The ~~terms term~~ *term* "massage therapy" and "~~therapeutic~~
473 ~~massage~~" ~~do~~ *does* not include the diagnosis or treatment of illness or disease or any service or procedure
474 for which a license to practice medicine, nursing, *midwifery*, chiropractic ~~therapy~~, physical therapy,
475 occupational therapy, acupuncture, *athletic training*, or podiatry is required by law [*any service*
476 *described in §54.1-3001(18)*] .

477 "Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the
478 Boards of Medicine and Nursing pursuant to § 54.1-2957.

479 "Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate
480 licensure privilege under the provisions of this chapter to practice practical nursing as defined in this
481 section. Such a licensee shall be empowered to provide nursing services without compensation. The
482 abbreviation "L.P.N." shall stand for such terms.

483 "Practical nursing" or "licensed practical nursing" means the performance for compensation of
484 selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in
485 normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject
486 to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse
487 aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing
488 procedures gained through prescribed education. Practical nursing or licensed practical nursing is
489 performed under the direction or supervision of a licensed medical practitioner, a professional nurse,

registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

§ 54.1-3001. Exemptions.

This chapter shall not apply to the following:

1. The furnishing of nursing assistance in an emergency;
2. The practice of nursing, which is prescribed as part of a study program, by nursing students enrolled in nursing education programs approved by the Board or by graduates of approved nursing education programs for a period not to exceed ninety days following successful completion of the nursing education program pending the results of the licensing examination, provided proper application and fee for licensure have been submitted to the Board and unless the graduate fails the licensing examination within the 90-day period;
3. The practice of any legally qualified nurse of another state who is employed by the United States government while in the discharge of his official duties;
4. The practice of nursing by a nurse who holds a current unrestricted license in another state, the District of Columbia, a United States possession or territory, or who holds a current unrestricted license in Canada and whose training was obtained in a nursing school in Canada where English was the primary language, for a period of 30 days pending licensure in Virginia, if the nurse, upon employment, has furnished the employer satisfactory evidence of current licensure and submits proper application and fees to the Board for licensure before, or within 10 days after, employment. At the discretion of the Board, additional time may be allowed for nurses currently licensed in another state, the District of Columbia, a United States possession or territory, or Canada who are in the process of attaining the qualification for licensure in this Commonwealth;
5. The practice of nursing by any registered nurse who holds a current unrestricted license in another state, the District of Columbia, or a United States possession or territory, or a nurse who holds an equivalent credential in a foreign country, while enrolled in an advanced professional nursing program requiring clinical practice. This exemption extends only to clinical practice required by the curriculum;
6. The practice of nursing by any nurse who holds a current unrestricted license in another state, the District of Columbia, or a United States possession or territory and is employed to provide care to any private individual while such private individual is traveling through or temporarily staying, as defined in the Board's regulations, in the Commonwealth;
7. General care of the sick by nursing assistants, companions or domestic servants that does not constitute the practice of nursing as defined in this chapter;
8. The care of the sick when done solely in connection with the practice of religious beliefs by the adherents and which is not held out to the public to be licensed practical or professional nursing;
9. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;
10. The practice of nursing by any nurse who is a graduate of a foreign nursing school and has met the credential, language, and academic testing requirements of the Commission on Graduates of Foreign

551 Nursing Schools for a period not to exceed ninety days from the date of approval of an application
552 submitted to the Board when such nurse is working as a nonsupervisory staff nurse in a licensed nursing
553 home or certified nursing facility. During such ninety-day period, such nurse shall take and pass the
554 licensing examination to remain eligible to practice nursing in Virginia; no exemption granted under this
555 subdivision shall be extended;

556 11. The practice of nursing by any nurse rendering free health care to an underserved population in
557 Virginia who (i) does not regularly practice nursing in Virginia, (ii) holds a current valid license or
558 certification to practice nursing in another state, territory, district or possession of the United States, (iii)
559 volunteers to provide free health care to an underserved area of this Commonwealth under the auspices
560 of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to
561 populations of underserved people, (iv) files a copy of the license or certification issued in such other
562 jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary
563 provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that
564 such licensure exemption shall only be valid, in compliance with the Board's regulations, during the
565 limited period that such free health care is made available through the volunteer, nonprofit organization
566 on the dates and at the location filed with the Board. The Board may deny the right to practice in
567 Virginia to any nurse whose license or certificate has been previously suspended or revoked, who has
568 been convicted of a felony or who is otherwise found to be in violation of applicable laws or
569 regulations. However, the Board shall allow a nurse who meets the above criteria to provide volunteer
570 services without prior notice for a period of up to three days, provided the nonprofit organization
571 verifies that the practitioner has a valid, unrestricted license in another state;

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

576 13. The practice of nursing by any nurse who holds a current unrestricted license from another state,
577 the District of Columbia or a United States possession or territory, while such nurse is in the
578 Commonwealth temporarily and is practicing nursing in a summer camp or in conjunction with clients
579 who are participating in specified recreational or educational activities;

580 14. *The practice of massage therapy that is an integral part of a program of study by a student*
581 *enrolled in a massage therapy educational program under the direction of a licensed massage therapist.*
582 *Any student enrolled in a massage therapy educational program shall be identified as a "Student*
583 *Massage Therapist" and shall deliver massage therapy under the supervision of an appropriate clinical*
584 *instructor recognized by the educational program;*

585 15. *The practice of massage therapy by a massage therapist licensed or certified in good standing in*
586 *another state, the District of Columbia, or another country, while such massage therapist is volunteering*
587 *at a sporting or recreational event or activity, is responding to a disaster or emergency declared by the*
588 *appropriate authority, is travelling with an out-of-state athletic team or an athlete for the duration of*
589 *the athletic tournament, game, or event in which the team or athlete is competing, or is engaged in*
590 *educational seminars;*

591 16. *Any person providing services related to the domestic care of any family member or household*
592 *member so long as that person does not offer, hold out, or claim to be a massage therapist; or*

593 17. *Any health care professional licensed or certified under this title for which massage therapy is a*
594 *component of his practice.*

595 [18. *Any practitioner of the healing arts who does not hold a license issued by a health regulatory*
596 *board within the Department of Health Professions and who provides stroking of the hands, feet, or ears*
597 *or the use of touch, words, and directed movement including healing touch, therapeutic touch,*
598 *mind-body centering, orthobionomy, traeger therapy, reflexology, polarity therapy, reiki, qigong, muscle*
599 *activation techniques, or practices with the primary purpose of affecting energy systems of the human*
600 *body.]*

601 **§ 54.1-3005. Specific powers and duties of Board.**

602 In addition to the general powers and duties conferred in this title, the Board shall have the
603 following specific powers and duties:

604 1. To prescribe minimum standards and approve curricula for educational programs preparing persons
605 for licensure or certification under this chapter;

606 2. To approve programs that meet the requirements of this chapter and of the Board;

607 3. To provide consultation service for educational programs as requested;

608 4. To provide for periodic surveys of educational programs;

609 5. To deny or withdraw approval from educational programs for failure to meet prescribed standards;

610 6. To provide consultation regarding nursing practice for institutions and agencies as requested and
611 investigate illegal nursing practices;

612 7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To approve programs that entitle professional nurses to be registered as clinical nurse specialists and to prescribe minimum standards for such programs;

10. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

11. To ~~certify~~ *license* and maintain a registry of all ~~certified~~ *licensed* massage therapists and to promulgate regulations governing the criteria for ~~certification~~ *licensure* as a massage therapist and the standards of professional conduct for ~~certified~~ *licensed* massage therapists;

12. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

13. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

15. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

16. To expedite application processing, to the extent possible, for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

17. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

18. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

19. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

20. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

21. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

22. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

23. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § 54.1-2957.

§ 54.1-3005.1. Criminal history background checks.

The Board shall require each applicant for licensure as a practical nurse ~~or~~, registered nurse, *or licensed massage therapist* to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.

The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the Board, which shall be a governmental entity. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. The information shall not be disseminated except as provided in this section.

§ 54.1-3008. Particular violations; prosecution.

A. It shall be a Class 1 misdemeanor for any person to:

1. Practice nursing under the authority of a license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;
2. Practice nursing unless licensed to do so under the provisions of this chapter;
3. Knowingly employ an unlicensed person as a professional or practical nurse or knowingly permit an unlicensed person to represent himself as a professional or practical nurse;
4. Use in connection with his name any designation tending to imply that he is a professional nurse or a practical nurse unless duly licensed to practice under the provisions of this chapter;
5. Practice professional nursing or practical nursing during the time his license is suspended or revoked;

6. Conduct a nursing education program for the preparation of professional or practical nurses unless the program has been approved by the Board; or

7. ~~Claim to be, on and after July 1, 1997, a certified massage therapist or massage therapist or use any designation tending to imply that he is a massage therapist or certified massage therapist unless he is certified under the provisions of this chapter~~ Engage in the practice of massage therapy or hold himself out as practicing massage therapy unless he holds a license as a massage therapist issued by the Board.

B. The provisions of this section shall apply, mutatis mutandis, to persons holding a multistate licensure privilege to practice nursing.

Article 5.

~~Certification~~ Licensure of Massage Therapists.

§ 54.1-3029. Qualifications for a licensed massage therapist.

A. In order to be ~~certified~~ *licensed* as a massage therapist, the applicant shall furnish evidence satisfactory to the Board that the applicant:

1. Is at least 18 years old;
2. Has successfully completed a minimum of 500 hours of training from a massage therapy program, certified or approved by the State Council of Higher Education or an agency in another state, the District of Columbia, or a United States territory that approves educational programs, notwithstanding the provisions of § 23-276.2;
3. Has passed the ~~National Certification Exam for Therapeutic Massage and Bodywork, the National Certification Exam for Therapeutic Massage, the~~ Licensing Examination of the Federation of State Massage Therapy Boards, or an ~~exam~~ *examination* deemed acceptable to the Board of Nursing; and
4. Has not committed any acts or omissions that would be grounds for disciplinary action or denial of ~~certification~~ *licensure* as set forth in this chapter.

B. ~~The Board may certify any applicant who has been practicing massage therapy for up to 10 years prior to July 1, 1997, and has completed at least 200 hours of training in an education program. Such programs may be, but shall not be required to be, certified or approved by the State Council of Higher Education or an agency in another state, the District of Columbia, or a United States territory that approves educational programs, or has been in practice for 10 years or more prior to July 1, 1997, and has completed 20 hours of such training; or has passed the National Certification Exam for Therapeutic Massage and Bodywork prior to 1994.~~

C. ~~The Board may issue a provisional certification license to an applicant prior to passing the National Certification Exam for Therapeutic Massage and Bodywork~~ *Licensing Examination of the Federation of State Massage Therapy Boards* for such time and in such manner as prescribed by the Board. No more than one provisional ~~certification~~ *license* shall be issued to any applicant.

D. C. The Board may ~~certify~~ *license* without examination any applicant who is licensed or ~~certified~~ as a massage therapist in another state, the District of Columbia, a United States possession or territory, or another country, and, in the opinion of the Board, meets the requirements for ~~certified~~ *licensed* massage therapists in the Commonwealth.

§ 54.1-3029.1. Advisory Board on Massage Therapy.

The Advisory Board on Massage Therapy shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration, regulation, and standards of professional conduct of massage therapists as described in § 54.1-3029. The Advisory Board shall also assist in such other matters relating to the practice of massage therapy as the Board may require.

736 The Advisory Board on Massage Therapy shall consist of five members to be appointed by the
737 Governor for four-year terms as follows: three members shall be ~~certified~~ *licensed* massage therapists
738 who have practiced in the Commonwealth for not less than three years prior to their appointment; one
739 shall be an administrator or faculty member of a nationally accredited school of massage therapy; and
740 one shall be a citizen member appointed from the Commonwealth at large.

741 The Advisory Board shall elect a chairman and vice-chairman from among its membership. The
742 Advisory Board shall meet at least once a year and may hold additional meetings as necessary to
743 perform its duties. A majority of the Board shall constitute a quorum for the conduct of business.

744 Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No
745 person shall be eligible to serve on the Advisory Board for more than two successive terms.

746 **2. That the Board of Nursing shall promulgate regulations to implement the provisions of this act**
747 **to be effective within 280 days of its enactment.**

748 **3. That any person holding a certificate to practice massage therapy prior to July 1, 2017, shall be**
749 **deemed to be licensed thereafter and the Board of Nursing shall at the time of renewal provide**
750 **such person a license.**

751 **4. That the provisions of the first and third enactments of this act shall become effective on July 1,**
752 **2017.**

ENGROSSED

HB562E