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HOUSE BILL NO. 157

Offered January 10, 2018

Prefiled December 21, 2017

A BILL to amend and reenact § 32.1-134.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.20 and by adding a section numbered 54.1-2912.1:1, relating to right to treat; requirement of Maintenance of Certification prohibited.

Patrons—Rasoul and Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-134.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.20 and by adding a section numbered 54.1-2912.1:1 as follows:

§ 32.1-134.1. When denial, etc., to duly licensed physician of staff membership or professional privileges improper.

It shall be an improper practice for the governing body of a hospital which has twenty-five beds or more and which A. No hospital or other entity that has an organized medical staff or a process for credentialing physicians as members of staff or employs or enters into contracts for employment with physicians and that is required by state law to be licensed to refuse or shall (i) fail or refuse to act within sixty days of a completed on an application for staff membership or professional privileges or submitted by a licensed physician within 60 days of receipt of a completed application, (ii) deny or withhold from a duly licensed physician staff membership or professional privileges in such hospital or other entity from a licensed physician, or (iii) exclude or expel a licensed physician from staff membership in such hospital or other entity, or (iv) curtail, terminate, or diminish in any way a physician's the professional privileges of a licensed physician in such hospital or other entity, without stating in writing the reason or reasons therefor, a copy of which shall be provided to the physician. If the reason or reasons stated are unrelated to standards of patient care, patient welfare, violation of the rules and regulations of the institution or staff, the objectives or efficient operations of the institution, or the character or competency of the applicant, or misconduct in any such hospital or other entity, such failure, refusal, denial, withholding, exclusion, expulsion, curtailment, termination, or diminishment shall be deemed an improper practice.

B. No hospital or other entity described in subsection A shall require any Maintenance of Certification or Osteopathic Continuous Certification, as defined in § 54.1-2912.1:1, as a condition of granting or continuing staff membership or professional privileges to a licensed physician.

C. Any licensed physician licensed in this Commonwealth to practice medicine who is aggrieved by any violation of this section shall have the right to seek an injunction from the circuit court of the city or county in which the hospital or other entity alleged to have violated this section is located prohibiting any such further violation. The provisions of this section shall not be deemed to impair or affect any other right or remedy, provided that a violation of this section shall not constitute a violation of the provisions of this article for the purposes of § 32.1-135.

§ 38.2-3407.20. Requirement of Maintenance of Certification prohibited.

No provider plan pursuant to this chapter or Chapter 42 (§ 38.2-4200 et seq.) or health maintenance organization pursuant to Chapter 43 (§ 38.2-4300 et seq.) shall (i) require any Maintenance of Certification or Osteopathic Continuous Certification, as defined in § 54.1-2912.1:1, as a condition of participation or reimbursement for a physician licensed by the Board of Medicine pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 or (ii) establish different rates of reimbursement for physicians based on participation in any Maintenance of Certification or Osteopathic Continuous Certification, as defined in § 54.1-2912.1:1.

§ 54.1-2912.1:1. Requirement of Maintenance of Certification prohibited.

A. As used in this section,

"Maintenance of Certification" means a continuing professional development program through which physicians certified by one or more of the medical specialty boards of the American Board of Medical Specialties or any other entity providing medical specialty certification maintain specialty certification or complete practice assessments and evaluations.

"Osteopathic Continuous Certification" means a continuous professional development program through which physicians certified by one or more of the medical specialty boards of the American

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59 *Osteopathic Association or any other entity providing medical specialty certification maintain specialty*  
60 *certification or complete practice assessments and evaluations.*

61 *B. The Board shall not require participation in any Maintenance of Certification or Osteopathic*  
62 *Continuous Certification program or obtaining or maintaining any national or regional certification as*  
63 *a condition of licensure to practice medicine in the Commonwealth.*

64 *C. Nothing in this section shall exempt licensed physicians from continuing medical education*  
65 *requirements established by the Board of Medicine pursuant to § 54.1-2912.1.*