

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 885

*An Act to amend and reenact §§ 54.1-2806, 54.1-3480, 54.1-3483, and 54.1-3807 of the Code of Virginia, relating to health regulatory boards.*

[S 422]

Approved April 8, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2806, 54.1-3480, 54.1-3483, and 54.1-3807 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2806. Refusal, suspension, or revocation of license, registration, or courtesy card.**

A. As used in this section, "license" shall include any license, registration, or courtesy card issued by the Board.

B. The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct that is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;
4. False or misleading advertising or solicitation;
5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;
9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity;
10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
11. Using profane, indecent, or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or cemetery;
13. Violation of any statute, ordinance, or regulation affecting the handling, custody, care, or transportation of dead human bodies;
14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;
15. Knowingly making any false statement on a certificate of death;
16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;
18. Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission that the body parts may be disposed of in a manner different from that used to dispose of the body;
19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;
20. Violating or cooperating with others to violate any provision of Chapter 1 (§ 54.1-100 et seq.), Chapter 24 (§ 54.1-2400 et seq.), this chapter, or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;
21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral

service interns as required by regulations of the Board;

23. Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner that is contrary to the lawful instructions of the next-of-kin of the deceased;

24. Failure to include, as part of the general price list for funeral services, a disclosure statement notifying the next of kin that certain funeral services may be provided off-premises by other funeral service providers;

25. Disciplinary action against a license, certificate, or registration issued by another state, the District of Columbia, or territory or possession of the United States;

26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order; and

27. Mental or physical incapacity to practice his profession with safety to the public.

**§ 54.1-3480. Refusal, revocation or suspension.**

A. As used in this section, "license" shall include any license or compact privilege, as defined in § 54.1-3486, issued by the Board.

B. The Board may refuse to admit a candidate to any examination, may refuse to issue a license to any applicant, and may suspend for a stated period of time or indefinitely or revoke any license or censure or reprimand any person or place him on probation for such time as it may designate for any of the following causes:

1. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of physical therapy;

2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;

3. Unprofessional conduct as defined in this chapter;

4. Intentional or negligent conduct that causes or is likely to cause injury to a patient or patients;

5. Mental or physical incapacity or incompetence to practice his profession with safety to his patients and the public;

6. Restriction of a license to practice physical therapy in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction;

7. Conviction in any state, territory or country of any felony or of any crime involving moral turpitude;

8. Adjudged legally incompetent or incapacitated in any state if such adjudication is in effect and the person has not been declared restored to competence or capacity; or

9. Conviction of an offense in another state, territory or foreign jurisdiction, which if committed in Virginia would be a felony. Such conviction shall be treated as a felony conviction under this section regardless of its designation in the other state, territory or foreign jurisdiction.

~~B.~~ C. The Board shall refuse to admit a candidate to any examination and shall refuse to issue a license to any applicant if the candidate or applicant has had his certificate or license to practice physical therapy revoked or suspended, and has not had his certificate or license to so practice reinstated, in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

**§ 54.1-3483. Unprofessional conduct.**

Any physical therapist or physical therapist assistant licensed by the Board or practicing pursuant to a compact privilege, as defined in § 54.1-3486, approved by the Board shall be considered guilty of unprofessional conduct if he:

1. Engages in the practice of physical therapy under a false or assumed name or impersonates another practitioner of a like, similar or different name;

2. 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;

3. Aids or abets, has professional contact with, or lends his name to any person known to him to be practicing physical therapy illegally;

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

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

6. Publishes in any manner an advertisement that violates Board regulations governing advertising;

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

8. Violates any provision of statute or regulation, state or federal, relating to controlled substances;

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

10. 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.

**§ 54.1-3807. Refusal to grant and to renew; revocation and suspension of licenses and**

**registrations.**

The Board may refuse to grant or to renew, may suspend, or *may* revoke any license to practice veterinary medicine or to practice as a veterinary technician or registration to practice as an equine dental technician if such applicant or holder:

1. Is convicted of any felony or of any misdemeanor involving moral turpitude;
2. Employs or permits any person who does not hold a license to practice veterinary medicine or to practice as a licensed veterinary technician or registration to practice as an equine dental technician to perform work which can lawfully be performed only by a person holding the appropriate license or registration;
3. Willfully violates any provision of this chapter or any regulation of the Board;
4. Has violated any federal or state law relating to controlled substances as defined in Chapter 34 (§ 54.1-3400 et seq.);
5. Is guilty of unprofessional conduct as defined by regulations of the Board;
6. Uses alcohol or drugs to the extent such use renders him unsafe to practice or suffers from any mental or physical condition rendering him unsafe to practice; or
7. Has had his license to practice veterinary medicine or as a veterinary technician or his registration to practice as an equine dental technician in any other state revoked or suspended for any reason other than nonrenewal *or has surrendered such license or registration in lieu of disciplinary action.*