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SENATE BILL NO. 713

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 30, 2020)

(Patron Prior to Substitute—Senator McClellan)

A BILL to amend and reenact §§ 54.1-3500 and 54.1-3503 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 35 of Title 54.1 an article numbered 3, consisting of sections numbered 54.1-3516 and 54.1-3517, relating to Board of Counseling; licensure of art therapists and art therapy associates.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3500 and 54.1-3503 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 35 of Title 54.1 an article numbered 3, consisting of sections numbered 54.1-3516 and 54.1-3517, as follows:

§ 54.1-3500. Definitions.

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

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Art therapist" means a person who has (i) completed a master's or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution; (ii) satisfied the requirements for licensure set forth in regulations adopted by the Board; and (iii) been issued a license for the independent practice of art therapy by the Board.

"Art therapy" means the integrated use of psychotherapeutic principles, visual art media, and the creative process in the assessment, treatment, and remediation of psychosocial, emotional, cognitive, physical, and developmental disorders in children, adolescents, adults, families, or groups.

"Art therapy associate" means a person who has (i) completed a master's or doctoral degree program in art therapy, or an equivalent course of study from an accredited educational institution; (ii) satisfied the requirements for licensure set forth in regulations adopted by the Board; and (iii) been issued a license to practice art therapy under an approved clinical supervisor in accordance with regulations of the Board.

"Board" means the Board of Counseling.

"Certified substance abuse counseling assistant" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.2.

"Certified substance abuse counselor" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.1.

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Marriage and family therapist" means a person trained in the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, standards, and methods of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include

60 assessment, treatment, and referral activities.

61 "Practice of substance abuse treatment" means rendering or offering to render substance abuse
62 treatment to individuals, groups, organizations, or the general public.

63 "Professional counselor" means a person trained in the application of principles, standards, and
64 methods of the counseling profession, including counseling interventions designed to facilitate an
65 individual's achievement of human development goals and remediating mental, emotional, or behavioral
66 disorders and associated distresses that interfere with mental health and development.

67 "Qualified mental health professional" includes qualified mental health professionals-adult and
68 qualified mental health professionals-child.

69 "Qualified mental health professional-adult" means a qualified mental health professional who
70 provides collaborative mental health services for adults. A qualified mental health professional-adult
71 shall provide such services as an employee or independent contractor of the Department of Behavioral
72 Health and Developmental Services or the Department of Corrections, or as a provider licensed by the
73 Department of Behavioral Health and Developmental Services.

74 "Qualified mental health professional-child" means a person who by education and experience is
75 professionally qualified and registered by the Board to provide collaborative mental health services for
76 children and adolescents up to 22 years of age. A qualified mental health professional-child shall
77 provide such services as an employee or independent contractor of the Department of Behavioral Health
78 and Developmental Services or the Department of Corrections, or as a provider licensed by the
79 Department of Behavioral Health and Developmental Services.

80 "Qualified mental health professional-trainee" means a person who is receiving supervised training to
81 qualify as a qualified mental health professional and is registered with the Board.

82 "Referral activities" means the evaluation of data to identify problems and to determine advisability
83 of referral to other specialists.

84 "Registered peer recovery specialist" means a person who by education and experience is
85 professionally qualified and registered by the Board to provide collaborative services to assist individuals
86 in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer
87 recovery specialist shall provide such services as an employee or independent contractor of the
88 Department of Behavioral Health and Developmental Services, a provider licensed by the Department of
89 Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued
90 from the Department of Health Professions, or a facility licensed by the Department of Health.

91 "Residency" means a post-internship supervised clinical experience registered with the Board.

92 "Resident" means an individual who has submitted a supervisory contract to the Board and has
93 received Board approval to provide clinical services in professional counseling under supervision.

94 "Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading
95 to clinically significant impairment or distress.

96 "Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse
97 treatment theory, and substance abuse treatment techniques to define goals and develop a treatment plan
98 of action regarding substance abuse or dependence prevention, education, or treatment in the substance
99 abuse or dependence recovery process and (ii) referrals to medical, social services, psychological,
100 psychiatric, or legal resources when such referrals are indicated.

101 "Supervision" means the ongoing process, performed by a supervisor, of monitoring the performance
102 of the person supervised and providing regular, documented individual or group consultation, guidance,
103 and instruction with respect to the clinical skills and competencies of the person supervised.

104 § 54.1-3503. Board of Counseling.

105 The Board of Counseling shall regulate the practice of counseling, substance abuse treatment, *art*
106 *therapy*, and marriage and family therapy.

107 The Board shall consist of 12 members to be appointed by the Governor, subject to confirmation by
108 the General Assembly. Ten members shall be professionals licensed in the Commonwealth, who shall
109 represent the various specialties recognized in the profession, and two shall be *nonlegislative* citizen
110 members. Of the 10 professional members, six shall be professional counselors, three shall be licensed
111 marriage and family therapists who have passed the examination for licensure as a marriage and family
112 therapist, and one shall be a licensed substance abuse treatment practitioner.

113 The terms of the members of the Board shall be four years.

114 Article 3.

115 Art Therapists.

116 § 54.1-3516. Art therapist and art therapy associate; licensure.

117 A. No person shall engage in the practice of art therapy or hold himself out or otherwise represent
118 himself as an art therapist or art therapy associate unless he is licensed by the Board. Nothing in this
119 chapter shall prohibit a person licensed, certified, or registered by a health regulatory board from using
120 the modalities of art media if such modalities are within his scope of practice.

121 B. The Board shall adopt regulations governing the practice of art therapy, upon consultation with

the Advisory Board on Art Therapy established in § 54.1-3517. Such regulations shall (i) set forth the requirements for licensure as an art therapist or art therapy associate, (ii) provide for appropriate application and renewal fees, and (iii) include requirements for licensure renewal and continuing education.

C. In the adoption of regulations for licensure, the Board shall consider requirements for registration as a Registered Art Therapist (ATR) and certification as a Board Certified Art Therapist (ATR-BC) with the Art Therapy Credentials Board and successful completion of the Registered Art Therapist Board Certified Art Therapist examination.

D. A license issued for an art therapy associate shall be valid for a period of five years. At the end of the five-year period, an art therapy associate who has not met the requirements for licensure as an art therapist may submit an application for extension of licensure as an art therapy associate to the Board. Such application shall include (i) a plan for completing the requirements to obtain licensure as an art therapist, (ii) documentation of compliance with the continuing education requirements, (iii) documentation of compliance with requirements related to supervision, and (iv) a letter of recommendation from the clinical supervisor of record. An extension of a license as an art therapy associate pursuant to this subsection shall be valid for a period of two years and shall not be renewable.

§ 54.1-3517. Advisory Board on Art Therapy; membership; terms.

A. The Advisory Board on Art Therapy (the Advisory Board) is hereby established to assist the Board in formulating regulations related to the practice of art therapy. The Advisory Board shall also assist in such other matters relating to the practice of art therapy as the Board may require.

B. The Advisory Board shall have a total membership of five nonlegislative citizen members to be appointed by the Governor as follows: three members shall be licensed art therapists, one member shall be a licensed health care provider other than an art therapist, and one member shall be a citizen at large.

C. After the initial staggering of terms, members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

2. That the initial appointments of nonlegislative citizen members of the Advisory Board on Art Therapy, as created by this act, to be appointed by the Governor shall be staggered as follows: one member, who shall be a Board Certified Art Therapist (ATR-BC), shall be appointed for a term of one year; one member, who shall be a Board Certified Art Therapist (ATR-BC), shall be appointed for a term of two years; one member, who shall be a licensed health care provider other than an art therapist, shall be appointed for a term of three years; and two members, one of whom shall be a Board Certified Art Therapist (ATR-BC) and one of whom shall be a citizen at large representing the Commonwealth, shall be appointed for a term of four years.