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HOUSE BILL NO. 264

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 54.1-2901, 54.1-2904, 54.1-2951.1, 54.1-2952.1, 54.1-2956.01, and 54.1-3011 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2927.1 and 54.1-3011.02, relating to public health emergency; out-of-state licenses; deemed licensure.

 Patron—Head

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2901, 54.1-2904, 54.1-2951.1, 54.1-2952.1, 54.1-2956.01, and 54.1-3011 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2927.1 and 54.1-3011.02 as follows:

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01, any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed nurse practitioner, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed nurse practitioner, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

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59 14. The practice of the religious tenets of any church in the ministration to the sick and suffering by
60 mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for
61 compensation;

62 15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally
63 licensed practitioners in this Commonwealth;

64 16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable
65 regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia
66 temporarily and such practitioner has been issued a temporary authorization by the Board from
67 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
68 camp or in conjunction with patients who are participating in recreational activities, (ii) while
69 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
70 site any health care services within the limits of his license, voluntarily and without compensation, to
71 any patient of any clinic which is organized in whole or in part for the delivery of health care services
72 without charge as provided in § 54.1-106;

73 17. The performance of the duties of any active duty health care provider in active service in the
74 army, navy, coast guard, marine corps, air force, or public health service of the United States at any
75 public or private health care facility while such individual is so commissioned or serving and in
76 accordance with his official military duties;

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

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

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

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

87 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
88 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
89 § 54.1-106;

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

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

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

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

105 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
106 free health care to an underserved population of Virginia who (i) does not regularly practice his
107 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another
108 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to
109 an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer,
110 nonprofit organization that sponsors the provision of health care to populations of underserved people,
111 (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v)
112 notifies the Board at least five business days prior to the voluntary provision of services of the dates and
113 location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be
114 valid, in compliance with the Board's regulations, during the limited period that such free health care is
115 made available through the volunteer, nonprofit organization on the dates and at the location filed with
116 the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts
117 whose license or certificate has been previously suspended or revoked, who has been convicted of a
118 felony or who is otherwise found to be in violation of applicable laws or regulations. However, the
119 Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer
120 services without prior notice for a period of up to three days, provided the nonprofit organization

verifies that the practitioner has a valid, unrestricted license in another state;

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

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

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

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

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care; or

33. When the Board of Health has issued an emergency order pursuant to § 32.1-13, any practitioner of a profession regulated by the Board of Medicine who is licensed in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

§ 54.1-2904. Biennial renewal of licenses; copies; fee; lapsed licenses; reinstatement; penalties.

A. Every license granted under the provisions of this chapter shall be renewed biennially as prescribed by the Board. The Board shall send by mail or electronically notice for renewal of a license to every licensee. Failure to receive such notice shall not excuse any licensee from the requirements of renewal. The person receiving such notice shall furnish the information requested and submit the prescribed renewal fee to the Board. Copies of licenses may be obtained as provided in the Board's regulations.

B. Any licensee who allows his license to lapse by failing to renew the license or failing to meet professional activity requirements stipulated in the regulations may be reinstated by the Board upon submission of evidence satisfactory to the Board that he is prepared to resume practice in a competent manner and upon payment of the prescribed fee.

C. Any person practicing during the time his license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of this chapter.

D. When the Board of Health has issued an emergency order pursuant to § 32.1-13, the Board may waive (i) the requirement for submission of a fee for renewal or reinstatement of a license to practice medicine or osteopathic medicine or as a physician assistant or respiratory care therapist and (ii) the requirement for submission of evidence satisfactory to the Board that a practitioner whose license was allowed to lapse for failure to meet professional activity requirements has satisfied such requirements and is prepared to resume practice in a competent manner for any person who held a valid, unrestricted, active license to practice such profession within the four-year period immediately prior to the application for renewal or reinstatement of such license.

§ 54.1-2927.1. Practice by out-of-state licensees during public health emergency.

A. As used in this section, "hospital" includes a hospital as defined in § 32.1-123 and any affiliate of

182 *such hospital where both the hospital and the affiliate share the same corporate parent.*

183 *B. When the Board of Health has issued an emergency order pursuant to § 32.1-13, a person who (i)*
184 *holds a valid, unrestricted, active license to practice medicine, osteopathic medicine, or podiatry or to*
185 *practice as a physician assistant or respiratory therapist issued by another state, the District of*
186 *Columbia, or a United States territory or possession and (ii) has been engaged by the Department of*
187 *Health, a local or district health department, a hospital, a licensed nursing home, or a dialysis facility*
188 *for the purpose of assisting the Department, local or district health department, hospital, licensed*
189 *nursing home, or dialysis facility in responding to the public health emergency, including maintaining*
190 *clinically appropriate staffing levels to meet operational demands resulting from the public health*
191 *emergency, shall be deemed to be licensed to practice such profession in the Commonwealth for a period*
192 *of 30 days.*

193 *C. The Department, or a local or district health department, hospital, licensed nursing home, or*
194 *dialysis facility that has engaged a licensee whose license is deemed to be valid pursuant to this section,*
195 *shall submit to the Board the name, license type, state of licensure, and license identification number for*
196 *each such licensee within a reasonable time of the date on which such licensee begins to provide*
197 *services.*

198 *D. The 30-day period specified in subsection B shall be extended for an additional period of up to*
199 *30 days upon notification of the Board by the Department, or a local or district health department,*
200 *hospital, licensed nursing home or dialysis facility that has engaged the licensee, that the licensee*
201 *continues to be engaged by the Department of Health, a local or district health department, a hospital,*
202 *a licensed nursing home, or a dialysis facility for the purpose of assisting the Department, local or*
203 *district health department, hospital, licensed nursing home, or dialysis facility in responding to the*
204 *public health emergency, including maintaining clinically appropriate staffing levels to meet operational*
205 *demands resulting from the public health emergency.*

206 **§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant; licensure by**
207 **endorsement.**

208 A. The Board shall promulgate regulations establishing requirements for licensure as a physician
209 assistant that shall include the following:

210 1. Successful completion of a physician assistant program or surgical physician assistant program
211 accredited by the Accreditation Review Commission on Education for the Physician Assistant;

212 2. Passage of the certifying examination administered by the National Commission on Certification of
213 Physician Assistants; and

214 3. Documentation that the applicant for licensure has not had his license or certification as a
215 physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in
216 another jurisdiction.

217 B. The Board may issue a license by endorsement to an applicant for licensure as a physician
218 assistant if the applicant (i) is the spouse of an active duty member of the Armed Forces of the United
219 States or the Commonwealth, (ii) holds current certification from the National Commission on
220 Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good
221 standing, or that is eligible for reinstatement if lapsed, under the laws of another state.

222 C. ~~Every~~ *Except as provided in subsection E, every* physician assistant shall practice as part of a
223 patient care team and shall provide care in accordance with a written or electronic practice agreement
224 with one or more patient care team physicians or patient care team podiatrists.

225 A practice agreement shall include acts pursuant to § 54.1-2952, provisions for the periodic review
226 of patient charts or electronic health records, guidelines for collaboration and consultation among the
227 parties to the agreement and the patient, periodic joint evaluation of the services delivered, and
228 provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for
229 referrals.

230 A practice agreement may include provisions for periodic site visits by a patient care team physician
231 or patient care team podiatrist who is part of the patient care team at a location other than where the
232 licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by the
233 patient care team physician or patient care team podiatrist who is part of the patient care team.

234 D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to
235 the Board upon request. The practice agreement may be maintained in writing or electronically and may
236 be a part of credentialing documents, practice protocols, or procedures.

237 E. *When the Board of Health has issued an emergency order pursuant to § 32.1-13, a physician*
238 *assistant who has two years of clinical experience as a licensed physician assistant may practice in his*
239 *area of knowledge and expertise without a practice agreement.*

240 **§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician**
241 **assistants.**

242 A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33
243 (§ 54.1-3300 et seq.), a licensed physician assistant shall have the authority to prescribe controlled

substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.) and as provided in a practice agreement. Such practice agreements shall include a statement of the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the patient care team physician or patient care team podiatrist.

B. *Except as provided in subsection E, it shall be unlawful for the physician assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the practice agreement and the requirements in this section.*

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency, which may include continuing education, testing, and any other requirement and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients, and (ii) a requirement that the physician assistant disclose to his patients his name, address, and telephone number and that he is a physician assistant. If a patient or his representative requests to speak with the patient care team physician or patient care team podiatrist, the physician assistant shall arrange for communication between the parties or provide the necessary information.

D. This section shall not prohibit a licensed physician assistant from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

E. *When the Board of Health has issued an emergency order pursuant to § 32.1-13, a physician assistant who is authorized to practice without a practice agreement pursuant to subsection E of § 54.1-2951.1 may prescribe controlled substances or devices without a practice agreement.*

§ 54.1-2956.01. Exceptions to respiratory therapist's licensure.

A. The licensure requirements for respiratory therapists provided in this chapter shall not prohibit the practice of respiratory care as an integral part of a program of study by students enrolled in an accredited respiratory care education program approved by the Board. Any student enrolled in accredited respiratory care education programs shall be identified as "Student RT" and shall only deliver respiratory care under the direct supervision of an appropriate clinical instructor recognized by the education program.

B. *Notwithstanding the provisions of subsection A, when the Board of Health has issued an emergency order pursuant to § 32.1-13, a person who has graduated from an accredited respiratory therapy education program may practice with the title "Respiratory Therapist, License Applicant" or "RT-Applicant" until (i) he has been licensed by the Board or received a failing score on any examination required by the Board of licensure or (ii) 90 days from the date on which such program was completed, whichever occurs sooner.*

§ 54.1-3011. Renewal of licenses; lapsed licenses; reinstatement; penalties.

A. Every license issued under the provisions of this chapter shall be renewed biennially by such time as the Board may prescribe by regulation. The Board shall mail or send electronically a notice for renewal to every licensee, but the failure to receive such notice shall not excuse any licensee from the requirements for renewal. The person receiving such notice shall furnish the requested information and return the form to the Board with the renewal fee.

B. Any licensee who allows his license to lapse by failing to renew the license may be reinstated by the Board upon submission of satisfactory evidence that he is prepared to resume practice in a competent manner and upon payment of the fee.

C. Any person practicing nursing during the time his license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter.

D. *When the Board of Health has issued an emergency order pursuant to § 32.1-13, the Board may waive (i) the requirement for submission of a fee for renewal of a license or (ii) the requirement for submission of evidence satisfactory to the Board that a licensee whose license was allowed to lapse by failing to renew his license is prepared to resume practice in a competent manner for any person who held a valid, unrestricted, active license to practice nursing within the four-year period immediately prior to the application for renewal of such license.*

§ 54.1-3011.02. Practice by out-of-state licensees during public health emergency.

A. As used in this section, "hospital" includes a hospital as defined in § 32.1-123 and any affiliate of such hospital where both the hospital and the affiliate share the same corporate parent.

B. *When the Board of Health has issued an emergency order pursuant to § 32.1-13, a person who (i) holds a valid, unrestricted, active license or certificate, as may be appropriate, to practice as an*

305 advanced practice registered nurse, registered nurse, licensed practical nurse, or nurse aide issued by
306 another state, the District of Columbia, or a United States territory or possession and (ii) has been
307 engaged by the Department of Health, a local or district health department, a hospital, a licensed
308 nursing home, or a dialysis facility for the purpose of assisting the Department, local or district health
309 department, hospital, licensed nursing home or dialysis facility in responding to the public health
310 emergency, including maintaining clinically appropriate staffing levels to meet operational demands
311 resulting from the public health emergency, shall be deemed to be licensed or certified, as may be
312 appropriate, to practice such profession in the Commonwealth for a period of 30 days.

313 C. The Department, or a local or district health department, hospital, licensed nursing home, or
314 dialysis facility that has engaged a licensee or certificate holder whose license or certificate is deemed
315 to be valid pursuant to this section, shall submit to the Board the name, type of license or certificate,
316 state of licensure or certification, and license or certificate identification number for each such licensee
317 or certificate holder within a reasonable time of the date on which such licensee or certificate holder
318 begins to provide services.

319 D. The 30-day period specified in subsection B shall be extended for an additional period of up to
320 30 days upon notification of the Board by the Department, or a local or district health department,
321 hospital, licensed nursing home, or dialysis facility that has engaged the licensee or certificate holder,
322 that the licensee or certificate holder continues to be engaged by the Department of Health, a local or
323 district health department, a hospital, a licensed nursing home, or a dialysis facility for the purpose of
324 assisting the Department, local or district health department, hospital, licensed nursing home, or dialysis
325 facility in responding to the public health emergency, including maintaining clinically appropriate
326 staffing levels to meet operational demands resulting from the public health emergency.