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**HOUSE BILL NO. 1658**

Offered January 11, 2023

Prefiled January 8, 2023

*A BILL to amend and reenact § 54.1-2400 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-19.1:14, relating to proposed scope of practice changes; health regulatory board assessment required; report.*

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 Patron—Price
 

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Referred to Committee on Health, Welfare and Institutions

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

**1. That § 54.1-2400 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-19.1:14 as follows:**

**§ 30-19.1:14. Legislative scope of practice changes assessment by relevant health regulatory boards; report.**

*A. Any bill that proposes to change the scope of practice of a profession regulated by the Department of Health Professions pursuant to § 54.1-2503 and that is not identical or substantially similar to a bill previously reviewed by the relevant health regulatory boards within the three-year period immediately preceding the then-current session of the General Assembly shall be submitted by the Chairman of the House Committee on Health, Welfare and Institutions or the Senate Committee on Education and Health having jurisdiction over the proposal to the relevant health regulatory boards with a request for assessment and recommendation.*

*B. The relevant health regulatory boards shall assess the regulatory, licensing, and financial impact of the proposed bill. Upon completion of the assessment, the relevant health regulatory boards may make a recommendation regarding its support of or opposition to the enactment of the proposed bill. The relevant health regulatory boards shall be given a period of 24 months to complete and submit its assessment and recommendation. A report summarizing the relevant health regulatory board's assessment shall be forwarded to the chairman of the standing committee that requested the assessment.*

*C. Whenever a bill that proposes to change the scope of practice of a profession regulated by the Department of Health Professions pursuant to § 54.1-2503 is identical or substantially similar to a bill previously reviewed by the relevant health regulatory boards within the three-year period immediately preceding the then-current session of the General Assembly, the standing committee may request the relevant health regulatory boards to assess the measure as provided in subsections A and B.*

**§ 54.1-2400. General powers and duties of health regulatory boards.**

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).

7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit,

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59 or multistate licensure privilege which such board has authority to issue for causes enumerated in  
60 applicable law and regulations.

61 8. To appoint designees from their membership or immediate staff to coordinate with the Director  
62 and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the  
63 provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such  
64 designee.

65 9. To take appropriate disciplinary action for violations of applicable law and regulations, and to  
66 accept, in their discretion, the surrender of a license, certificate, registration, permit, or multistate  
67 licensure privilege in lieu of disciplinary action.

68 10. To appoint a special conference committee, composed of not less than two members of a health  
69 regulatory board or, when required for special conference committees of the Board of Medicine, not less  
70 than two members of the Board and one member of the relevant advisory board, or, when required for  
71 special conference committees of the Board of Nursing, not less than one member of the Board and one  
72 member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information  
73 that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to  
74 consider an application for a license, certification, registration, permit or multistate licensure privilege in  
75 nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or  
76 permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a  
77 previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an  
78 application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii)  
79 issue a restricted license, certification, registration, permit or multistate licensure privilege subject to  
80 terms and conditions. The order of the special conference committee shall become final 30 days after  
81 service of the order unless a written request to the board for a hearing is received within such time. If  
82 service of the decision to a party is accomplished by mail, three days shall be added to the 30-day  
83 period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall  
84 then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated.  
85 This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately  
86 qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding  
87 proceedings in accordance with § 2.2-4019, upon receipt of information that a practitioner may be  
88 subject to a disciplinary action. The recommendation of such subordinate may be considered by a panel  
89 consisting of at least five board members, or, if a quorum of the board is less than five members,  
90 consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for  
91 the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

92 11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum  
93 of the board is less than five members, consisting of a quorum of the members to conduct formal  
94 proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any  
95 decision rendered by majority vote of such panel shall have the same effect as if made by the full board  
96 and shall be subject to court review in accordance with the Administrative Process Act. No member who  
97 participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel  
98 conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

99 12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose.  
100 Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for  
101 reactivation of licenses or certificates.

102 13. To meet by telephone conference call to consider settlement proposals in matters pending before  
103 special conference committees convened pursuant to this section, or matters referred for formal  
104 proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider  
105 modifications of previously issued board orders when such considerations have been requested by either  
106 of the parties.

107 14. To request and accept from a certified, registered, or licensed practitioner; a facility holding a  
108 license, certification, registration, or permit; or a person holding a multistate licensure privilege to  
109 practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent  
110 agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed  
111 by a practitioner or facility. A confidential consent agreement shall include findings of fact and may  
112 include an admission or a finding of a violation. A confidential consent agreement shall not be  
113 considered either a notice or order of any health regulatory board, but it may be considered by a board  
114 in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases  
115 involving minor misconduct where there is little or no injury to a patient or the public and little  
116 likelihood of repetition by the practitioner or facility. A board shall not enter into a confidential consent  
117 agreement if there is probable cause to believe the practitioner or facility has (i) demonstrated gross  
118 negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a  
119 manner as to be a danger to the health and welfare of his patients or the public. A certified, registered,  
120 or licensed practitioner, a facility holding a license, certification, registration, or permit, or a person

holding a multistate licensure privilege to practice nursing who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

16. *To review proposed legislation pursuant to § 30-19.1:14 and make recommendations to the General Assembly.*