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**SENATE BILL NO. 403**

Offered January 10, 2024

Prefiled January 9, 2024

*A BILL to amend and reenact §§ 54.1-3500 and 54.1-3505 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 35 of Title 54.1 an article numbered 4, consisting of sections numbered 54.1-3518 and 54.1-3519, relating to behavioral health aides; scope of practice, supervision, and qualifications.*

Patrons—Durant, Aird and Boysko

Referred to Committee on Education and Health

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

**1. That §§ 54.1-3500 and 54.1-3505 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 4, consisting of sections numbered 54.1-3518 and 54.1-3519, 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.

"Behavioral health aide" means a person registered with the Board to practice in accordance with the provisions of § 54.1-3518.

"Behavioral health aide trainee" means a person registered with the Board to receive supervised training as a prerequisite to registration as a behavioral health aide.

"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.

"Collaborative behavioral health services" means those rehabilitative supportive services that are provided by a registered behavioral health aide or registered behavioral health aide trainee, as set forth in a service plan under the direction of and in collaboration with either a mental health professional licensed in the Commonwealth or a person under supervision as a prerequisite for licensure who has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work or a registered nurse or an occupational therapist who has met the supervisor requirements to supervise behavioral health aides and behavioral health aide trainees.

"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

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59 substance abuse treatment provided by others.

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

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

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

70 "Practice of marriage and family therapy" means the appraisal and treatment of cognitive, affective,  
71 or behavioral mental and emotional disorders within the context of marriage and family systems through  
72 the application of therapeutic and family systems theories and techniques, which shall include  
73 assessment, treatment, and referral activities.

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

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

80 "Qualified mental health professional" includes qualified mental health professionals-adult and  
81 qualified mental health professionals-child.

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

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

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

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

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

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

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

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

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

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

117 **§ 54.1-3505. Specific powers and duties of the Board.**

118 In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers  
119 and duties:

120 1. To cooperate with and maintain a close liaison with other professional boards and the community

to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.

5. [Expired.]

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.

8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration, and for the registration of persons receiving supervised training in order to qualify as a qualified mental health professional.

10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.

11. To promulgate regulations for the issuance of temporary licenses to individuals engaged in a counseling residency so that they may acquire the supervised, postgraduate experience required for licensure.

#### Article 4.

##### Behavioral Health Aides.

##### **§ 54.1-3518. Scope of practice, supervision, and qualifications of behavioral health aides.**

A. A registered behavioral health aide shall be (i) qualified to perform, under Board-approved supervision, collaborative behavioral health services, including the supportive functions of screening, intake, orientation, implementation of treatment plans, case management, client education, referral activities, and recordkeeping and (ii) after three years of practicing as a behavioral health aide in good standing and completion of the required behavioral health aide supervisor training set forth by the Board, qualified to supervise, as part of a collaborative team, behavioral health aides and behavioral health aide trainees. Registered behavioral health aides shall not engage in independent or autonomous practice and shall only perform collaborative behavioral health services.

B. Such registered behavioral health aide shall also be supervised by a mental health professional licensed by the Department of Health Professions, a supervisee in social work, a resident in clinical psychology, or a registered nurse or occupational therapist who has taken the required training set forth by the Board.

C. Pursuant to regulations adopted by the Board, an applicant for registration as a behavioral health aide shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified number of hours of didactic education in a program or programs recognized or approved by the Board, (ii) received an associate degree from a college or university accredited by an accrediting agency recognized by the Board, and (iii) accumulated a specified number of hours of Board-approved supervised experience as a behavioral health aid trainee. A bachelor's degree shall not be a requirement

182 for registration as a behavioral health aide.

183 **§ 54.1-3519. Scope of practice, supervision, and qualifications as a behavioral health aide trainee.**

184 A. A registered behavioral health aide trainee shall be qualified, under Board-approved supervision,  
185 to implement treatment plans, to conduct case management and recordkeeping, to make referrals, and to  
186 consult with professionals as directed. Registered behavioral health aide trainees shall not engage in  
187 independent or autonomous practice and shall only provide collaborative behavioral health services.

188 B. Such registered behavioral health aide trainee shall be supervised either by a licensed  
189 professional counselor, a licensed clinical social worker, a licensed clinical psychologist, a licensed  
190 marriage and family therapist, a licensed substance abuse practitioner, a licensed master social worker,  
191 a licensed resident in counseling, a licensed resident in marriage and family therapy, a licensed resident  
192 in substance abuse treatment, a supervisee in social work, a resident in clinical psychology, a registered  
193 nurse, an occupational therapist licensed by the Board who meets the supervisor requirements set forth  
194 by the Board and has taken supervisor training specific to behavioral health aides, or a registered  
195 behavioral health aide who has practiced for three years and has taken the required supervisor training.

196 C. Pursuant to regulations adopted by the Board, an applicant for registration as a behavioral  
197 health aide trainee shall submit evidence satisfactory to the Board that the applicant has (i) received a  
198 high school diploma or its equivalent, (ii) completed a specified number of hours of didactic education  
199 in a program recognized or approved by the Board, and (iii) accumulated a specified number of hours  
200 of experience, supervised either by a mental health professional licensed by the Department of Health  
201 Professions, a supervisee in social work, a resident in clinical psychology, or a registered behavioral  
202 health aide who meets the supervisor requirements.

203 2. That the Board of Counseling's initial adoption of regulations necessary to implement the  
204 provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of  
205 the Code of Virginia), except that the Board of Counseling shall provide an opportunity for public  
206 comment on the regulations prior to adoption of such regulations.

207 3. That the Board of Counseling shall amend and promulgate regulations in accordance with this  
208 act by November 1, 2024.

209 4. That the provisions of § 54.1-3505 of the Code of Virginia, as amended by this act, shall become  
210 effective on July 1, 2026.