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## HOUSE BILL NO. 2721

House Amendments in [ ] — January 27, 1997

A *BILL to amend and reenact §§ 8.01-581.13, 38.2-3412.1, 54.1-2400.1, 54.1-3500, 54.1-3501, 54.1-3503, 54.1-3504, 54.1-3505, and 54.1-3506 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 35 of Title 54.1 an article numbered 1.1, consisting of sections numbered 54.1-3507 through 54.1-3509.1, relating to licensure of substance abuse treatment professionals.*

Patrons—Darnier, Baker, Behm, Connally, Cooper, Cunningham, Davies, DeBoer, Mims, Moran and Spruill; Senators: Benedetti, Gartlan, Saslaw, Waddell and Whipple

Referred to Committee on Health, Welfare and Institutions

Whereas, HB 1466 of 1996, relating to licensure of substance abuse treatment professionals, was passed by both houses of the General Assembly of Virginia; and

Whereas, HB 1466 became Chapter 1036 of the 1996 Acts of Assembly; and

Whereas, the provisions of the third enactment of HB 1466 required that the bill's other provisions be reenacted by the 1997 Session of the General Assembly in order to become effective; and

Whereas, although some revisions have been made in the present bill, the primary concepts remain as set forth in HB 1466 of 1996; now, therefore,

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

**1. That §§ 8.01-581.13, 38.2-3412.1, 54.1-2400.1, 54.1-3500, 54.1-3501, 54.1-3503, 54.1-3504, 54.1-3505, and 54.1-3506 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 1.1, consisting of sections numbered 54.1-3507 through 54.1-3509.1, as follows:**

§ 8.01-581.13. Civil immunity for certain health professionals and health profession students serving as members of certain entities.

A. For the purposes of this subsection, "health professional" means any certified substance abuse counselor, clinical psychologist, applied psychologist, school psychologist, dentist, licensed professional counselor, *licensed substance abuse treatment practitioner, licensed substance abuse treatment provider, licensed substance abuse treatment assistant, marriage and family therapist*, optometrist, physician, chiropractor, podiatrist, or veterinarian who is actively engaged in the practice of his profession.

Unless such act, decision, or omission resulted from such health professional's bad faith or malicious intent, any health professional, as defined in this subsection, shall be immune from civil liability for any act, decision or omission resulting from his duties as a member or agent of any entity which functions primarily (i) to investigate any complaint that a physical or mental impairment, including alcoholism or drug addiction, has impaired the ability of any such health professional to practice his profession and (ii) to encourage, recommend and arrange for a course of treatment, if deemed appropriate, or (iii) to review the duration of patient stays in health facilities or delivery of professional services for the purpose of promoting the most efficient use of available health facilities and services, the adequacy and quality of professional services, or the reasonableness or appropriateness of charges made by or on behalf of such health professionals. Such entity shall have been established pursuant to a federal or state law, or by one or more public or licensed private hospitals, or a relevant health professional society, academy or association affiliated with the American Medical Association, the American Dental Association, the American Pharmaceutical Association, the American Psychological Association, the American Podiatric Medical Association, the American Society of Hospitals and Pharmacies, the American Veterinary Medical Association, the American Association for Counseling and Development, the American Optometric Association, International Chiropractic Association, the American Chiropractic Association, *the National Association of Alcoholism and Drug Abuse Counselors, the American Association for Marriage and Family Therapy* or a governmental agency.

B. Unless such act, decision, or omission resulted from such pharmacist's or nurse's bad faith or malicious intent, any licensed pharmacist or nurse who is actively engaged in the practice of his profession shall be immune from civil liability for any act, decision or omission resulting from his duties while serving as a member or agent of any entity which functions primarily (i) to investigate any complaint that a physical or mental impairment, including alcoholism or drug addiction, has impaired the ability of any pharmacist or nurse to practice his profession and (ii) to encourage, recommend and arrange for a course of treatment, if deemed appropriate.

C. For the purposes of this subsection, "health profession student" means a student in good standing who is enrolled in an accredited school, program, or curriculum in clinical psychology, dentistry,

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60 medicine, nursing, pharmacy, chiropractic, *marriage and family therapy*, substance abuse ~~counseling~~  
61 *treatment*, or veterinary medicine and has received training relating to substance abuse.

62 Unless such act, decision, or omission resulted from such health profession student's bad faith or  
63 malicious intent, any health profession student, as defined in this subsection, shall be immune from civil  
64 liability for any act, decision, or omission resulting from his duties as a member of an entity established  
65 by the institution of higher education in which he is enrolled or a professional student's organization  
66 affiliated with such institution which functions primarily (i) to investigate any complaint of a physical or  
67 mental impairment, including alcoholism or drug addiction, of any health profession student and (ii) to  
68 encourage, recommend, and arrange for a course of treatment, if deemed appropriate.

69 D. The immunity provided hereunder shall not extend to any person with respect to actions, decisions  
70 or omissions, liability for which is limited under the provisions of the federal Social Security Act or  
71 amendments thereto.

72 § 38.2-3412.1. Coverage for mental health and substance abuse services.

73 A. As used in this section:

74 "Adult" means any person who is nineteen years of age or older.

75 "Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the  
76 treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the  
77 State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the State Mental  
78 Health, Mental Retardation and Substance Abuse Services Board pursuant to Chapter 8 (§ 37.1-179 et  
79 seq.) of Title 37.1 or (ii) a state agency or institution.

80 "Child or adolescent" means any person under the age of nineteen years.

81 "Inpatient treatment" means mental health or substance abuse services delivered on a  
82 twenty-four-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care  
83 facility or an inpatient unit of a mental health treatment center.

84 "Intermediate care facility" means a licensed, residential public or private facility that is not a  
85 hospital and that is operated primarily for the purpose of providing a continuous, structured  
86 twenty-four-hour per day, state-approved program of inpatient substance abuse services.

87 "Medication management visit" means a visit no more than twenty minutes in length with a licensed  
88 physician or other licensed health care provider with prescriptive authority for the sole purpose of  
89 monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

90 "Mental health services" means treatment for mental, emotional or nervous disorders.

91 "Mental health treatment center" means a treatment facility organized to provide care and treatment  
92 for mental illness through multiple modalities or techniques pursuant to a written plan approved and  
93 monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this  
94 Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for  
95 funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with  
96 an established system for patient referral.

97 "Outpatient treatment" means mental health or substance abuse treatment services rendered to a  
98 person as an individual or part of a group while not confined as an inpatient. Such treatment shall not  
99 include services delivered through a partial hospitalization or intensive outpatient program as defined  
100 herein.

101 "Partial hospitalization" means a licensed or approved day or evening treatment program that includes  
102 the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed  
103 for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who  
104 require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall  
105 provide treatment over a period of six or more continuous hours per day to individuals or groups of  
106 individuals who are not admitted as inpatients. Such term shall also include intensive outpatient  
107 programs for the treatment of alcohol or other drug dependence which provide treatment over a period  
108 of three or more continuous hours per day to individuals or groups of individuals who are not admitted  
109 as inpatients.

110 "Substance abuse services" means treatment for alcohol or other drug dependence.

111 "Treatment" means services including diagnostic evaluation, medical psychiatric and psychological  
112 care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence  
113 rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health  
114 treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed  
115 professional counselor, *marriage and family therapist* or clinical nurse specialist who renders mental  
116 health services. Treatment for physiological or psychological dependence on alcohol or other drugs shall  
117 also include the services of counseling and rehabilitation as well as services rendered by a state certified  
118 alcoholism, drug, or substance abuse counselor, *licensed substance abuse treatment practitioner*, *licensed*  
119 *substance abuse treatment provider* or *licensed substance abuse treatment assistant* employed by a  
120 facility or program licensed to provide such treatment.

121 B. Each individual and group accident and sickness insurance policy or individual and group

subscription contract providing coverage on an expense-incurred basis for a family member of the insured or the subscriber shall provide coverage for inpatient and partial hospitalization mental health and substance abuse services as follows:

1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of twenty days per policy or contract year.

2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of twenty-five days per policy or contract year.

3. Up to ten days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336, of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for each inpatient day of coverage. An insurance policy or subscription contract described herein which provides inpatient benefits in excess of twenty days per policy or contract year for adults or twenty-five days per policy or contract year for a child or adolescent may provide for the conversion of such excess days on the terms set forth in this subdivision.

4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any other illness, except that the benefits may be limited as set out in this subsection.

5. This subsection shall not apply to short-term travel, accident only, limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

C. Each individual and group accident and sickness insurance policy or individual and group subscription contract providing coverage on an expense-incurred basis for a family member of the insured or the subscriber shall also provide coverage for outpatient mental health and substance abuse services as follows:

1. A minimum of twenty visits for outpatient treatment of an adult, child or adolescent shall be provided in each policy or contract year.

2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit beyond the first five of such visits covered in any policy or contract year shall be at least fifty percent.

3. For the purpose of this section, medication management visits shall be covered in the same manner as a medication management visit for the treatment of physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth herein.

4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health or substance abuse treatment apply toward any deductible required by a policy or contract, such visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

5. This subsection shall not apply to short-term travel, accident only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

D. The requirements of this section shall apply to all insurance policies and subscription contracts delivered, issued for delivery, reissued, or extended, or at any time when any term of the policy or contract is changed or any premium adjustment made.

§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed substance abuse treatment practitioner," "licensed substance abuse treatment provider" or "licensed substance abuse treatment assistant" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Marriage and family therapist" means a person licensed to engage in practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally

183 qualified and licensed in Virginia to provide counseling interventions designed to facilitate an  
184 individual's achievement of human development goals and remediate mental, emotional, or behavioral  
185 disorders and associated distresses which interfere with mental health and development.

186 "Mental health service provider" or "provider" refers to any of the following: (i) a person who  
187 provides professional services as a certified substance abuse counselor, clinical psychologist, clinical  
188 social worker, *licensed substance abuse treatment practitioner, licensed substance abuse treatment*  
189 *provider, licensed substance abuse treatment assistant*, licensed practical nurse, *marriage and family*  
190 *therapist*, mental health professional, physician, professional counselor, psychologist, registered nurse,  
191 school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or  
192 members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

193 "Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

194 "Psychologist" means a person who practices psychology as defined in § 54.1-3600.

195 "Registered nurse" means a person licensed to practice professional nursing as defined in  
196 § 54.1-3000.

197 "School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

198 "Social worker" means a person who practices social work as defined in § 54.1-3700.

199 B. A mental health service provider has a duty to take precautions to protect third parties from  
200 violent behavior or other serious harm only when the client has orally, in writing, or via sign language,  
201 communicated to the provider a specific and immediate threat to cause serious bodily injury or death to  
202 an identified or readily identifiable person or persons, if the provider reasonably believes, or should  
203 believe according to the standards of his profession, that the client has the intent and ability to carry out  
204 that threat immediately or imminently. If the third party is a child, in addition to taking precautions to  
205 protect the child from the behaviors in the above types of threats, the provider also has a duty to take  
206 precautions to protect the child if the client threatens to engage in behaviors that would constitute  
207 physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the  
208 threat has been communicated to the provider by the threatening client while the provider is engaged in  
209 his professional duties.

210 C. The duty set forth in subsection B is discharged by a mental health service provider who takes  
211 one or more of the following actions:

212 1. Seeks civil commitment of the client under Chapter 2 (§ 37.1-63 et seq.) of Title 37.1.

213 2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential  
214 victim if the potential victim is under the age of eighteen.

215 3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or  
216 potential victim's place of residence or place of work, or place of work of the parent or guardian if the  
217 potential victim is under age eighteen, or both.

218 4. Takes steps reasonably available to the provider to prevent the client from using physical violence  
219 or other means of harm to others until the appropriate law-enforcement agency can be summoned and  
220 takes custody of the client.

221 5. Provides therapy or counseling to the client or patient in the session in which the threat has been  
222 communicated until the mental health service provider reasonably believes that the client no longer has  
223 the intent or the ability to carry out the threat.

224 D. A mental health service provider shall not be held civilly liable to any person for:

225 1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the  
226 threats described in subsection B made by his clients to potential third party victims or law-enforcement  
227 agencies or by taking any of the actions specified in subsection C.

228 2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause  
229 the third party serious physical harm.

230 3. Failing to take precautions other than those enumerated in subsection C to protect a potential third  
231 party victim from the client's violent behavior.

232 § 54.1-3500. Definitions.

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

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

237 "Board" means the Board of Professional Counselors and Marriage and Family Therapists.

238 "Certified substance abuse counselor" means a person certified to provide substance abuse counseling  
239 in a state-approved public or private substance abuse program or facility.

240 "Counseling" means the therapeutic process of: (i) conducting assessments and diagnoses for the  
241 purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating  
242 treatment plans using treatment interventions to facilitate human development and to identify and  
243 remediate mental, emotional or behavioral disorders and associated distresses which interfere with mental  
244 health.

"Counseling treatment intervention" means those cognitive, affective, behavioral and systemic counseling strategies, techniques and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

*"Licensed substance abuse treatment assistant" means a person who is trained [ in and, ] under the supervision or direction of an appropriate professional licensed under Title 54.1 of the Code of Virginia, or in compliance with the supervision requirements of a licensed facility, [ ~~and who~~ ] engages in selected aspects of the practice of substance abuse treatment, as approved and monitored by the person's supervisor, with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence. Licensed substance abuse treatment assistants shall not engage in independent or autonomous practice.*

*"Licensed substance abuse treatment practitioner" means a person who is: (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; (ii) qualified to provide advanced substance abuse treatment and independent, direct and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate and direct substance abuse treatment provided by others; and (iii) qualified to supervise, direct and instruct licensed substance abuse treatment providers and licensed substance abuse treatment assistants.*

*"Licensed substance abuse treatment provider" means a person who (i) is trained [ in and, ] under the supervision or direction of an appropriate professional licensed under Title 54.1 of the Code of Virginia or in compliance with the supervision requirements of a licensed facility, [ ~~and who~~ ] 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; (ii) has primary responsibility for client care of persons with a primary diagnosis of substance abuse or dependence; and (iii) is qualified to supervise, direct and instruct licensed substance abuse treatment assistants. Licensed substance abuse treatment providers shall not engage in independent or autonomous practice.*

"Marriage and family therapist" means a person trained in the assessment 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 assessment 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, methods or procedures of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the assessment 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 assessment, treatment, and referral activities.

*"Practice of substance abuse treatment" means rendering or offering to render to individuals, groups, organizations, or the general public any substance abuse treatment service involving, and limited to, (i) the application of specific knowledge, skills, substance abuse treatment theory and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric or legal resources when such referrals are indicated.*

"Professional counselor" means a person trained in counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

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

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

*"Substance abuse treatment" means treatment provided by a licensed substance abuse treatment practitioner, licensed substance abuse treatment provider or licensed substance abuse treatment assistant.*

§ 54.1-3501. Exemption from requirements of licensure.

The requirements for licensure in this chapter shall not be applicable to:

1. Persons who render services that are like or similar to those falling within the scope of the classifications or categories in this chapter, so long as the recipients or beneficiaries of such services are not subject to any charge or fee, or any financial requirement, actual or implied, and the person rendering such service is not held out, by himself or otherwise, as a *person licensed practitioner under this chapter*.

2. The activities or services of a student pursuing a course of study in counseling, *substance abuse treatment* or marriage and family therapy in an institution accredited by an accrediting agency recognized by the Board or under the supervision of a ~~practitioner~~ *person* licensed ~~or certified~~ under this chapter, if such activities or services constitute a part of ~~his~~ *the student's* course of study and are adequately supervised.

3. The activities, including marriage and family therapy ~~or~~, counseling, *or substance abuse treatment*, of rabbis, priests, ministers or clergymen of any religious denomination or sect when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made or when such activities are performed, whether with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination or sect, and the person rendering service remains accountable to its established authority.

4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated employment, engages in an independent private practice shall not be exempt from the requirements for licensure.

5. Persons regularly employed by private business firms as personnel managers, deputies or assistants so long as their counseling activities relate only to employees of their employer and in respect to their employment.

6. Persons regulated by this Board as professional counselors or persons regulated by another board within the Department of Health Professions who provide, within the scope of their practice, marriage and family therapy ~~or~~, counseling ~~to individuals or groups or substance abuse treatment to individuals or groups~~.

§ 54.1-3503. Board of Professional Counselors, Substance Abuse Treatment Professionals, and Marriage and Family Therapists.

The Board of Professional Counselors, *Substance Abuse Treatment Professionals*, and Marriage and Family Therapists shall regulate the practice of counseling, *substance abuse treatment*, and marriage and family therapy.

The Board shall consist of ~~nine~~ *eleven* members, ~~six~~ *nine* of whom shall be ~~professional counselors and one of whom shall be a marriage and family therapist~~ *professionals* licensed in Virginia, who shall represent the various specialties recognized in the profession *and two of whom shall be citizen members*. *Of the nine professional members, five shall be professional counselors, two shall be marriage and family therapists, and two shall be licensed substance abuse treatment practitioners [ ; licensed substance abuse treatment providers or licensed substance abuse treatment assistants ]*. The professional members of the Board shall include two full-time faculty members engaged in teaching counseling, *substance abuse treatment* or marriage and family therapy in an accredited college or university in this Commonwealth, *and two professional counselors engaged in full-time private practice and one certified substance abuse counselor*. However, the marriage and family ~~therapist therapists~~ initially appointed to the Board shall not be required to be licensed, shall not be licensed by another board in the Department of Health Professions, and shall be a clinical ~~member~~ *members* of the American Association for Marriage and Family Therapy. *The licensed substance abuse treatment practitioners [ ; licensed substance abuse treatment providers or licensed substance abuse treatment assistants ] initially appointed to the Board shall not be required to be licensed, shall not be licensed by another board in the Department of Health Professions, and shall be active members of the Virginia Association of Alcoholism and Drug Abuse Counselors*. ~~In addition, two citizen members shall be appointed to the Board.~~

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

§ 54.1-3504. Nominations.

Nominations for professional members may be made from a list of at least three names for each vacancy submitted to the Governor by the Virginia Counselors Association, the Virginia Association of Clinical Counselors, *the Virginia Association of Alcoholism and Drug Abuse Counselors*, and the Virginia Association for Marriage and Family Therapy. The Governor may notify such organizations of any professional vacancy other than by expiration. In no case shall the Governor be bound to make any appointment from among the nominees.

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

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

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. (Effective until July 1, 1999) To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers. In promulgating such regulations, the Board shall consider the standards recommended by the Advisory Committee on Certified Practices pursuant to § 54.1-3610. The provisions of this subdivision shall expire on July 1, 1999.

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 of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners, licensed substance abuse treatment providers, and licensed substance abuse treatment assistants. In the promulgation of these regulations, the Board 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 shall also establish standards and protocols for the clinical supervision of licensed substance abuse treatment providers and supervision or direction of licensed substance abuse treatment assistants, and reasonable access to the person providing that supervision or direction.*

§ 54.1-3506. License required.

In order to engage in the practice of counseling, *substance abuse treatment* or marriage and family therapy as defined in this chapter it shall be necessary to hold a license; however, no license shall be required to practice marriage and family therapy *or substance abuse treatment* until six months after the effective date of regulations governing marriage and family therapy and *substance abuse treatment*, respectively, promulgated by the Board under ~~subdivision 6~~ subdivisions 6 and 7 of § 54.1-3505. The Board of Professional Counselors and Marriage and Family Therapists may issue a license, without examination, to practice marriage and family therapy *or substance abuse treatment* to persons who hold a current and unrestricted license as a professional counselor within the Commonwealth and who meet the clinical and academic requirements for licensure as a marriage and family therapist *or licensed substance abuse treatment practitioner, respectively*. The applicant for such license shall present satisfactory evidence of qualifications equal to those required of applicants for licensure as marriage and family therapists *or licensed substance abuse treatment practitioners, respectively*, by examination in the Commonwealth.

#### Article 1.1.

##### *Licensed Substance Abuse Treatment Professionals.*

§ 54.1-3507. *Scope of practice of and qualifications for licensed substance abuse treatment practitioners.*

A. A licensed substance abuse treatment practitioner shall be qualified to (i) perform on an independent basis the substance abuse treatment functions of screening, intake, orientation, assessment, treatment planning, treatment, case management, substance abuse or dependence crisis intervention, client education, referral activities, record keeping, and consultation with other professionals; (ii) exercise independent professional judgment, based on observations and objective assessments of a client's behavior, to evaluate current functioning, to diagnose and select appropriate remedial treatment for identified problems, and to make appropriate referrals; and (iii) clinically supervise licensed substance abuse treatment providers, and supervise, direct and instruct licensed substance abuse treatment providers and licensed substance abuse treatment assistants.

429 *B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed substance*  
430 *abuse treatment practitioner shall submit evidence satisfactory to the Board that the applicant has (i)*  
431 *completed a specified number of hours of graduate studies, including a specified number of didactic*  
432 *substance abuse education courses at, and has received a master's degree in substance abuse or a*  
433 *substantially equivalent master's level education from, a college or university accredited by an*  
434 *accrediting agency recognized by the Board; and (ii) completed a specified number of hours of*  
435 *experience involving the practice of substance abuse treatment supervised by a licensed substance abuse*  
436 *treatment practitioner, or by another person with substantially equivalent education, training and*  
437 *experience, such number of hours being greater than the number of hours required of a licensed*  
438 *substance abuse treatment provider. The applicant shall also pass an examination, as required by the*  
439 *Board.*

440 *§ 54.1-3508. Scope of practice of and qualifications for licensed substance abuse treatment providers.*

441 *A. A licensed substance abuse treatment provider shall (i) be qualified to perform, under appropriate*  
442 *supervision or direction, the substance abuse treatment functions of screening, intake, orientation,*  
443 *assessment, treatment planning, treatment, case management, substance abuse or dependence crisis*  
444 *intervention, client education, referral activities, record keeping, and consultation with other*  
445 *professionals; (ii) be qualified to supervise, direct and instruct licensed substance abuse treatment*  
446 *assistants; and (iii) be clinically supervised and supervised or directed by a licensed substance abuse*  
447 *treatment practitioner, or by another person with substantially equivalent education, training and*  
448 *experience or be in compliance with the supervision requirements of a licensed facility. Licensed*  
449 *substance abuse treatment providers shall not engage in independent or autonomous practice.*

450 *B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed substance*  
451 *abuse treatment provider shall submit evidence satisfactory to the Board that the applicant has (i)*  
452 *completed a specified number of hours of didactic substance abuse education courses at, and received a*  
453 *bachelor's degree in human services or its equivalent from, a college or university accredited by an*  
454 *accrediting agency recognized by the Board; and (ii) completed a specified number of hours of*  
455 *experience involving the practice of substance abuse treatment supervised by a licensed substance abuse*  
456 *treatment practitioner, or by another person with substantially equivalent education, training and*  
457 *experience, such number of hours being greater than the number of hours required of a licensed*  
458 *substance abuse treatment assistant. The applicant shall also pass an examination, as required by the*  
459 *Board.*

460 *§ 54.1-3509. Scope of practice of and qualifications for licensed substance abuse treatment*  
461 *assistants.*

462 *A. A licensed substance abuse treatment assistant shall (i) be qualified to perform, under appropriate*  
463 *supervision or direction, the substance abuse treatment functions of orientation, implementation of*  
464 *treatment planning, case management, substance abuse or dependence crisis intervention, record*  
465 *keeping, consultation with other professionals, and other functions deemed appropriate by the supervisor*  
466 *to improve the outcome of an individual's care and (ii) be supervised or directed by a licensed*  
467 *substance abuse treatment practitioner or licensed substance abuse treatment provider, or by another*  
468 *person with substantially equivalent education, training and experience or be in compliance with the*  
469 *supervision requirements of a licensed facility. Licensed substance abuse treatment assistants may*  
470 *participate in recovery group discussions, but may not engage in counseling with either individuals or*  
471 *groups or engage in independent or autonomous practice.*

472 *B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed substance*  
473 *abuse treatment assistant shall submit evidence satisfactory to the Board that the applicant has (i)*  
474 *received a high school diploma or its equivalent, (ii) completed a specified number of hours of didactic*  
475 *substance abuse education at an institution or facility approved by the Board, and (iii) completed a*  
476 *specified number of hours of experience, and of a practicum or an internship, involving substance abuse*  
477 *treatment supervised by a licensed substance abuse treatment practitioner, by a licensed substance abuse*  
478 *treatment provider, or by another person with substantially equivalent education, training and*  
479 *experience. The applicant shall also pass an examination, as required by the Board*

480 *§ 54.1-3509.1. Licensure of certain persons possessing substantially equivalent qualifications,*  
481 *education or experience.*

482 *Notwithstanding the provisions of §§ 54.1-3507, 54.1-3508, and 54.1-3509, but subject to the scope*  
483 *of practice limitations of those sections, the Board may issue a license as a licensed substance abuse*  
484 *treatment practitioner, licensed substance abuse treatment provider or licensed substance abuse*  
485 *treatment assistant, as appropriate, to a person who, after the effective date of the regulations*  
486 *promulgated pursuant to subdivision 7 of § 54.1-3505, has applied for such a license and who, in the*  
487 *judgment of the Board, possesses qualifications, education or experience substantially equivalent to the*  
488 *requirements for the appropriate license pursuant to § 54.1-3507, § 54.1-3508, or § 54.1-3509.*

489 **2. That, notwithstanding the provisions of this act, the Board may certify, as a certified substance**  
490 **abuse counselor, any person who, on or before July 1, 1997, has registered his supervisory**

491 contract with the Board or has filed an application with the Board for certification as a certified  
492 substance abuse counselor.  
493 3. That, unless such certification is revoked by the Board, individuals certified by the Board of  
494 Professional Counselors and Marriage and Family Therapists as certified substance abuse  
495 counselors on or after the effective date of this act shall continue to be so certified by the Board,  
496 pursuant to the Board's regulations, until the effective date of the new licensure regulations to be  
497 promulgated by the Board pursuant to § 54.1-3505, at which time such persons shall be deemed to  
498 hold licensure at the appropriate level in accordance with the provisions of this act, as determined  
499 by the Board.

ENGROSSED

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