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SENATE BILL NO. 1266

Offered January 21, 1999

A BILL to amend and reenact §§ 32.1-146, 32.1-147, and 54.1-2901 of the Code of Virginia, relating to the practice of midwifery.

Patrons—Reynolds, Edwards, Holland and Quayle; Delegates: Darner, Day, Dudley, Marshall, McEachin, Moran and Watts

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-146, 32.1-147, and 54.1-2901 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-146. Registration and permits.

No person shall practice midwifery *as a direct-entry midwife* unless such person is registered and possesses a permit to practice *such* midwifery as provided for in this section. Any person who fulfills such requirements to practice midwifery as the Board may *have*, by regulation, ~~promulgate~~ *promulgated* prior to January 1, 1977, shall be eligible for a permit *to practice midwifery*. Upon registration and qualification *and payment of the designated fee*, the permit shall be issued ~~without charge by an official of the Department designated~~ by the Commissioner and countersigned by the director of the local health department. *The Board shall establish a reasonable fee for a permit to practice midwifery.*

§ 32.1-147. Application of article.

The provisions of this article shall apply only to midwives who are not registered nurses and who are registered and permitted to practice pursuant to this article prior to January 1, 1977, *and after July 1, 1999. All subsequent licensure* Licensure for midwifery shall be limited to registered nurses who are trained as nurse midwives pursuant to regulations jointly promulgated by the Board of Nursing and the Board of Medicine under the authority of § 54.1-2901; *however, direct-entry midwives may be registered and permitted to practice midwifery pursuant to this article after July 1, 1999, in accordance with the Board's regulations which were established prior to January 1, 1977.* Subject to the regulations of the State Board of Health *as in effect prior to January 1, 1977*, the permits of midwives who are not registered nurses and who have been ~~previously licensed~~ *registered and permitted* under this article shall be renewed on a biennial basis.

§ 54.1-2901. Exceptions and exemptions generally.

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 under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing;

4. Any registered professional nurse, registered midwife, 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;

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 in his personal employ and 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 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

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60 public or private health clubs and spas;

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

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

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

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

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

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

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

85 17. The performance of the duties of any commissioned or contract medical officer, physical
86 therapist, or podiatrist in active service in the army, navy, coast guard, marine corps, air force, or public
87 health service of the United States while such individual is so commissioned or serving;

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

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

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

93 21. Qualified emergency medical personnel, hospital emergency department health care providers or
94 other licensed hospital personnel, when acting within their scope of practice, from following Do Not
95 Resuscitate Orders in accordance with § 54.1-2987.1 and Board of Health regulations;

96 22. Any visiting or home care nurse licensed by the Board of Nursing acting in compliance with the
97 written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory
98 arrest;

99 23. Any commissioned or contract medical officer of the army, navy, coast guard or air force
100 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
101 § 54.1-106;

102 24. Any provider of a chemical dependency treatment program who is certified as an "acupuncture
103 detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent
104 certifying body, from administering auricular acupuncture treatment under the appropriate supervision of
105 a licensed physician acupuncturist or licensed acupuncturist;

106 25. Any employee of any adult care residence who is certified in cardiopulmonary resuscitation
107 (CPR) acting in compliance with the patient's individualized service plan and with the written order of
108 the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest; or

109 26. Any person working as a health assistant under the direction of a licensed medical or osteopathic
110 doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional
111 facilities; or

112 27. Any person who is registered and permitted pursuant to §§ 32.1-145, 32.1-146, and 32.1-147
113 from practicing midwifery.