

HOUSE BILL NO. 264

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions

on _____)

(Patron Prior to Substitute--Delegate Head)

A BILL to amend and reenact §§ 54.1-2901, 54.1-2904, and 54.1-3011 of the Code of Virginia, relating to public health emergency; out-of-state licenses; deemed licensure.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2901, 54.1-2904, and 54.1-3011 of the Code of Virginia are amended and reenacted 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

26 infusions and intravenous injections, and the insertion of tubes when performed under the orders of a
27 person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

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

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

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

39 8. The domestic administration of family remedies;

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

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

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

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

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

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

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

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

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

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

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

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

76 21. Qualified emergency medical services personnel, when acting within the scope of their
77 certification, and licensed health care practitioners, when acting within their scope of practice, from
78 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of

79 Health regulations, or licensed health care practitioners from following any other written order of a
80 physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

81 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
82 rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-
83 106;

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

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

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

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

99 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
100 free health care to an underserved population of Virginia who (i) does not regularly practice his profession
101 in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state,
102 territory, district or possession of the United States, (iii) volunteers to provide free health care to an
103 underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit
104 organization that sponsors the provision of health care to populations of underserved people, (iv) files a
105 copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board

106 at least five business days prior to the voluntary provision of services of the dates and location of such
107 service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in
108 compliance with the Board's regulations, during the limited period that such free health care is made
109 available through the volunteer, nonprofit organization on the dates and at the location filed with the
110 Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose
111 license or certificate has been previously suspended or revoked, who has been convicted of a felony or
112 who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall
113 allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without
114 prior notice for a period of up to three days, provided the nonprofit organization verifies that the
115 practitioner has a valid, unrestricted license in another state;

116 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens
117 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as
118 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of
119 Consolidated Laboratories or other public health laboratories, designated by the State Health
120 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in §
121 32.1-49.1;

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

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

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

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

140 33. Any practitioner of a profession regulated by the Board of Medicine who is licensed in another
141 state or the District of Columbia and who is in good standing with the applicable regulatory agency in that
142 state or the District of Columbia from engaging in the practice of that profession in the Commonwealth
143 with a patient located in the Commonwealth when (i) such practice is for the purpose of providing
144 continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient
145 is a current patient of the practitioner with whom the practitioner has previously established a practitioner-
146 patient relationship and the practitioner has performed an in-person examination of the patient within the
147 previous 12 months. For the purposes of this subdivision, if a patient is (a) an enrollee of a health
148 maintenance organization that contracts with a multispecialty group of practitioners, each of whom is
149 licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member
150 of the multispecialty group with whom such practitioner has previously established a practitioner-patient
151 relationship and of whom such practitioner has performed an in-person examination within the previous
152 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty
153 group with whom each such practitioner has established a practitioner-patient relationship.

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

159 **§ 54.1-2904. Biennial renewal of licenses; copies; fee; lapsed licenses; reinstatement;**
160 **penalties.**

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

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

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

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

181 **§ 54.1-3011. Renewal of licenses; lapsed licenses; reinstatement; penalties.**

182 A. Every license issued under the provisions of this chapter shall be renewed biennially by such
183 time as the Board may prescribe by regulation. The Board shall mail or send electronically a notice for
184 renewal to every licensee, but the failure to receive such notice shall not excuse any licensee from the

185 requirements for renewal. The person receiving such notice shall furnish the requested information and
186 return the form to the Board with the renewal fee.

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

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

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

198 #