

SENATE BILL NO. 403

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Durant)

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 through 54.1-3521, relating to behavioral health technicians; behavioral health technician assistants; qualified mental health professionals; qualified mental health professional-trainees; scope of practice, supervision, and qualifications.

**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 through 54.1-3521, 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.

27 "Art therapy associate" means a person who has (i) completed a master's or doctoral degree  
28 program in art therapy, or an equivalent course of study from an accredited educational institution; (ii)  
29 satisfied the requirements for licensure set forth in regulations adopted by the Board; and (iii) been issued  
30 a license to practice art therapy under an approved clinical supervisor in accordance with regulations of  
31 the Board.

32 "Behavioral health technician" means a person who has completed, at a minimum, an associate  
33 degree and registered with the Board to practice in accordance with the provisions of § 54.1-3518 and  
34 regulations of the Board and provides collaborative behavioral health services. A "behavioral health  
35 technician" shall provide such services as an employee or independent contractor of the Department of  
36 Behavioral Health and Developmental Services, the Department of Corrections, or the Department of  
37 Education or a provider licensed by the Department of Behavioral Health and Developmental Services.

38 "Behavioral health technician assistant" means a person who has completed a high school diploma  
39 or equivalent, at a minimum, and registered with the Board to practice in accordance with the regulations  
40 of the Board and the provisions of § 54.1-3519 to provide collaborative behavioral health services. A  
41 "behavioral health technician assistant" shall provide such services as an employee or independent  
42 contractor of the Department of Behavioral Health and Developmental Services, the Department of  
43 Corrections, or the Department of Education or a provider licensed by the Department of Behavioral  
44 Health and Developmental Services.

45 "Board" means the Board of Counseling.

46 "Certified substance abuse counseling assistant" means a person certified by the Board to practice  
47 in accordance with the provisions of § 54.1-3507.2.

48 "Certified substance abuse counselor" means a person certified by the Board to practice in  
49 accordance with the provisions of § 54.1-3507.1.

50 "Collaborative behavioral health services" means those supportive services that are provided by a  
51 registered behavioral health technician, registered behavioral health technician assistant, registered  
52 qualified mental health professional, or registered qualified mental health professional-trainee under the  
53 direction of and in collaboration with either a mental health professional licensed in the Commonwealth

54 or a person under supervision as a prerequisite for licensure who has been approved by the Board of  
55 Counseling, Board of Psychology, or Board of Social Work.

56 "Counseling" means the application of principles, standards, and methods of the counseling  
57 profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and  
58 objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions  
59 to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders  
60 and associated distresses that interfere with mental health.

61 "Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and  
62 engages in the practice of substance abuse treatment with individuals or groups of individuals suffering  
63 from the effects of substance abuse or dependence, and in the prevention of substance abuse or  
64 dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct,  
65 and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise,  
66 and direct substance abuse treatment provided by others.

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

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

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

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

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

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

87 "~~Qualified mental health professional~~" ~~includes qualified mental health professionals adult and~~  
88 ~~qualified mental health professionals child~~ means a person who by education and experience is  
89 professionally qualified and registered by the Board to provide collaborative mental health services. A  
90 "qualified mental health professional" shall provide such services as an employee or independent  
91 contractor of the Department of Behavioral Health and Developmental Services, the Department of  
92 Corrections, or the Department of Education or a provider licensed by the Department of Behavioral  
93 Health and Developmental Services.

94 "~~Qualified mental health professional adult~~" ~~means a qualified mental health professional who~~  
95 ~~provides collaborative mental health services for adults. A qualified mental health professional adult shall~~  
96 ~~provide such services as an employee or independent contractor of the Department of Behavioral Health~~  
97 ~~and Developmental Services or the Department of Corrections, or as a provider licensed by the Department~~  
98 ~~of Behavioral Health and Developmental Services.~~

99 "~~Qualified mental health professional child~~" ~~means a person who by education and experience is~~  
100 ~~professionally qualified and registered by the Board to provide collaborative mental health services for~~  
101 ~~children and adolescents up to 22 years of age. A qualified mental health professional child shall provide~~  
102 ~~such services as an employee or independent contractor of the Department of Behavioral Health and~~  
103 ~~Developmental Services or the Department of Corrections, or as a provider licensed by the Department of~~  
104 ~~Behavioral Health and Developmental Services.~~

105 "Qualified mental health professional-trainee" means a person who is receiving supervised training  
106 to qualify as a qualified mental health professional in accordance with the provisions of § 54.1-3521 and  
107 is registered with the Board. A "qualified mental health professional-trainee" shall provide such services

108 as an employee or independent contractor of the Department of Behavioral Health and Developmental  
109 Services, the Department of Corrections, or the Department of Education or a provider licensed by the  
110 Department of Behavioral Health and Developmental Services.

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

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

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

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

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

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

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

133 Supervisors may only supervise activities within their scope and area of Board-defined competency.  
134 Supervision provided by nonlicensed supervisors shall not be a replacement for the direction of services

135 and collaboration with the licensed mental health professional or licensed eligible mental health  
136 professional required to perform collaborative behavioral health services.

137 **§ 54.1-3505. Specific powers and duties of the Board.**

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

140 1. To cooperate with and maintain a close liaison with other professional boards and the  
141 community to ensure that regulatory systems stay abreast of community and professional needs.

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

144 3. To designate specialties within the profession.

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

148 5. [Expired.]

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

156 7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter,  
157 regulations for the qualifications, education, and experience for licensure of licensed substance abuse  
158 treatment practitioners and certification of certified substance abuse counselors and certified substance  
159 abuse counseling assistants. The requirements for membership in NAADAC: the Association for  
160 Addiction Professionals and its national examination may be considered by the Board in the promulgation  
161 of these regulations. The Board also may provide for the consideration and use of the accreditation and

162 examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational  
163 credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance  
164 abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour,  
165 and clinical supervision hour requirements for licensed professional counselors. Such regulations also  
166 shall establish standards and protocols for the clinical supervision of certified substance abuse counselors  
167 and the supervision or direction of certified substance abuse counseling assistants, and reasonable access  
168 to the persons providing that supervision or direction in settings other than a licensed facility.

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

171 9. To promulgate, subject to the requirements of Article 4 (§ 54.1-3518 et seq.), regulations for the  
172 registration of qualified mental health professionals, including qualifications, education, and experience  
173 necessary for such registration, and for the registration of persons receiving supervised training in order  
174 to qualify as a qualified mental health professional qualifications, training, supervision, and experience  
175 for the registration of behavioral health technicians, behavioral health technician assistants, qualified  
176 mental health professionals, and qualified mental health professional-trainees.

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

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

183 Article 4.

184 Behavioral Health Technicians and Qualified Mental Health Professionals.

185 **§ 54.1-3518. Scope of practice, supervision, and qualifications of registered behavioral health**  
186 **technicians.**

187 A. A registered behavioral health technician shall be (i) qualified to perform, under Board-  
188 approved supervision, collaborative behavioral health services, training on prevention of mental health

189 and substance use disorders, and mental health literacy and the supportive functions of screening, intake,  
190 orientation, care coordination, client education, and recordkeeping and (ii) after three years of practicing  
191 as a behavioral health technician in good standing and completion of the required behavioral health  
192 technician supervisor training set forth by the Board, qualified to supervise, as part of a collaborative team,  
193 behavioral health technicians and behavioral health technician assistants. A registered behavioral health  
194 technician shall not engage in independent or autonomous practice and shall only perform collaborative  
195 behavioral health services.

196 B. Such registered behavioral health technician shall be supervised by a mental health professional  
197 licensed by the Department of Health Professions, a person under supervision that has been approved by  
198 the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure  
199 who has completed the required supervisor training, or a registered qualified mental health professional  
200 who has practiced for three years and completed the required supervisor training.

201 C. Pursuant to regulations adopted by the Board, an applicant for registration as a behavioral health  
202 technician shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified  
203 number of hours of didactic education in a program or programs recognized or approved by the Board and  
204 (ii) received, at a minimum, an associate degree from an institution of higher education accredited by an  
205 accrediting agency recognized by the Board. A bachelor's degree shall not be a requirement for registration  
206 as a behavioral health technician.

207 **§ 54.1-3519. Scope of practice, supervision, and qualifications of registered behavioral health**  
208 **technician assistants.**

209 A. A registered behavioral health technician assistant shall be qualified to perform, under Board-  
210 approved supervision, collaborative behavioral health services, training on prevention of mental health  
211 and substance use disorders, and mental health literacy and the supportive functions of screening, intake,  
212 orientation, care coordination, client education, and recordkeeping. A registered behavioral health  
213 technician assistant shall not engage in independent or autonomous practice and shall only provide  
214 collaborative behavioral health services.



215 B. Such registered behavioral health technician assistants shall be supervised by either a mental  
216 health professional licensed by the Department of Health Professions who has completed the required  
217 supervisor training, a person under supervision that has been approved by the Board of Counseling, Board  
218 of Psychology, or Board of Social Work as a prerequisite for licensure who has completed the required  
219 supervisor training, a registered qualified mental health professional who has practiced for three years and  
220 completed the required supervisor training, or a registered behavioral health technician who has practiced  
221 for three years and completed the required supervisor training.

222 C. Pursuant to regulations adopted by the Board, an applicant for registration as a behavioral health  
223 technician assistant shall submit evidence satisfactory to the Board that the applicant has (i) received, at a  
224 minimum, a high school diploma or its equivalent and (ii) completed a specified number of hours of  
225 didactic education in a program recognized or approved by the Board.

226 **§ 54.1-3520. Scope of practice, supervision, and qualifications of qualified mental health**  
227 **professionals.**

228 A. A qualified mental health professional shall be qualified to perform, under Board-approved  
229 supervision, collaborative behavioral health services, including the supportive functions of (i) screening;  
230 (ii) intake; (iii) orientation; (iv) care coordination; (v) client education; (vi) referral activities; (vii)  
231 initiating crisis de-escalation; (viii) gathering histories of mental and physical health conditions, alcohol  
232 and drug use, past mental health treatment, and interactions with the criminal justice system; (ix) providing  
233 psychosocial skills development; (x) implementing interventions as assigned on individual plans of care  
234 and documenting the interventions for the purposes of recordkeeping; and (xi) prevention of mental health  
235 and substance use disorders. A registered qualified mental health professional shall not engage in  
236 independent or autonomous practice and shall only perform collaborative behavioral health services.

237 B. Such registered qualified mental health professionals shall be supervised by either a mental  
238 health professional licensed by the Department of Health Professions who has completed the required  
239 supervisor training, a person under supervision that has been approved by the Board of Counseling, Board  
240 of Psychology, or Board of Social Work as a prerequisite for licensure who has completed the required  
241 supervisor training, or a registered qualified mental health professional who has practiced for three years

242 and completed the required supervisor training. Registered qualified mental health professionals who have  
243 met the supervisor requirements may supervise activities within their scope. This supervision must occur  
244 under the broader required direction of and in collaboration with the licensed or licensed eligible mental  
245 health professional.

246 C. Pursuant to regulations adopted by the Board, an applicant for registration as a qualified mental  
247 health professional shall submit evidence satisfactory to the Board that the applicant has (i) completed a  
248 specified number of hours of didactic education in a program or programs recognized or approved by the  
249 Board; (ii) received, at a minimum, a bachelor's degree from an institution of higher education accredited  
250 by an accrediting agency recognized by the Board; and (iii) accumulated a specified number of hours of  
251 Board-approved supervised experience.

252 **§ 54.1-3521. Scope of practice, supervision, and qualifications of qualified mental health**  
253 **professional-trainees.**

254 A. A qualified mental health professional-trainee shall be qualified to perform, under Board-  
255 approved supervision, collaborative behavioral health services, including the supportive functions of (i)  
256 screening; (ii) intake; (iii) orientation; (iv) care coordination; (v) client education; (vi) referral activities;  
257 (vii) initiating crisis de-escalation; (viii) gathering histories of mental and physical health conditions,  
258 alcohol and drug use, past mental health treatment, and interactions with the criminal justice system; (ix)  
259 providing psychosocial skills development; (x) implementing interventions as assigned on individual  
260 plans of care and documenting the interventions for the purposes of recordkeeping; and (xi) prevention of  
261 mental health and substance use disorders. A registered qualified mental health professional-trainee shall  
262 not engage in independent or autonomous practice and shall only perform collaborative behavioral health  
263 services.

264 B. Such registered qualified mental health professional-trainees shall be supervised by a mental  
265 health professional licensed by the Department of Health Professions who has completed the required  
266 supervisor training, a person under supervision that has been approved by the Board of Counseling, Board  
267 of Psychology, or Board of Social Work as a prerequisite for licensure and who has completed the required

268 supervisor training, or a registered qualified mental health professional who has practiced for three years  
269 and completed the required supervisor training.

270 C. Pursuant to regulations adopted by the Board, an applicant for registration as a qualified mental  
271 health professional-trainee shall submit evidence satisfactory to the Board that the applicant has (i)  
272 completed a specified number of hours of didactic education in a program or programs recognized or  
273 approved by the Board and (ii) received, at a minimum, a bachelor's degree from an institution of higher  
274 education accredited by an accrediting agency recognized by the Board or is actively enrolled and in good  
275 standing in a bachelor's degree program from an institution of higher education accredited by an  
276 accrediting agency recognized by the Board.

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

281 **3. That the Board of Counseling shall promulgate regulations in accordance with this act by**  
282 **November 1, 2024.**

283 #