

SUBCOMMITTEE: PROFESSIONS/OCCUPATIONS AND ADMINSTRATIVE PR

1 HOUSE BILL NO. 982
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on General Laws
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Webert)

6 A BILL to amend and reenact § 54.1-103 of the Code of Virginia and to amend the Code of Virginia by
 7 adding sections numbered 54.1-100.2 and 54.1-103.1 through 54.1-103.10, relating to professions
 8 and occupations; licensure by endorsement.

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

10 **1. That § 54.1-103 of the Code of Virginia is amended and reenacted and that the Code of Virginia**
 11 **is amended by adding sections numbered 54.1-100.2 and 54.1-103.1 through 54.1-103.10 as follows:**

12 **§ 54.1-100.2. Definitions.**

13 As used in this chapter, unless the context clearly indicates otherwise:

14 "Active practice" means working for an average of 640 hours per year.

15 "Government certification" means a voluntary, government-granted, and nontransferable
 16 recognition to an individual who meets certain qualifications related to a lawful occupation. Upon the
 17 government's initial and continuing approval, the individual may use "government certified" or "state
 18 certified" as a title. A non-certified individual may also perform the lawful occupation for compensation
 19 but may not use the title "government certified" or "state certified." In this chapter, the term "government
 20 certification" is not synonymous with "occupational license" and does not include credentials, such as
 21 those used for a medical board certification or held by a certified public accountant, that are prerequisites
 22 to working lawfully in an occupation.

23 "Lawful occupation" means a course of conduct, pursuit, or profession that includes the sale of
 24 goods or services that are not themselves illegal to sell, irrespective of whether the individual selling them
 25 is subject to an occupational license.

26 "Occupational license" means a nontransferable authorization for an individual to perform
27 exclusively a lawful occupation based on meeting certain qualifications pursuant to law. In an occupation
28 for which a license is required, it is illegal for an individual who does not possess a valid occupational
29 license to perform the occupation.

30 "Other state" or "another state" means any territory or possession of the United States, the District
31 of Columbia, or a state in the United States other than the Commonwealth.

32 "Private certification" means a voluntary program in which a private organization grants
33 nontransferable recognition to an individual who meets certain qualifications and standards relevant to
34 performing the occupation as determined by the private organization. The individual may use the
35 designated title of "certified," as permitted by the private organization.

36 "Scope of practice" means the procedures, actions, processes, and work that an individual may
37 perform under an occupational license or government certification issued in the Commonwealth.

38 **§ 54.1-103. Reciprocity.**

39 A. The regulatory boards within the Department of Professional and Occupational Regulation and
40 the Department of Health Professions may promulgate regulations specifying education, experience,
41 additional training, or conditions for individuals seeking certification or licensure, or for the renewal of
42 certificates or licenses.

43 B. The regulatory boards may enter into agreements with other jurisdictions for the recognition of
44 certificates and licenses issued by other jurisdictions.

45 ~~C. The regulatory boards are authorized to promulgate regulations recognizing licenses or~~
46 ~~certificates issued by other states, the District of Columbia, or any territory or possession of the United~~
47 ~~States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.~~

48 **§ 54.1-103.1. Licensure by endorsement; another state's license.**

49 A. The regulatory boards within the Department of Professional and Occupational Regulation and
50 the Department of Health Professions shall, upon application by an individual, recognize licenses or
51 certificates issued by another state as fulfillment of qualifications for licensure or government certification
52 in the Commonwealth if the following conditions are met:

53 1. The individual holds a current and valid occupational license or government certification in
54 another state in a lawful occupation with a similar scope of practice, as determined by the board in the
55 Commonwealth;

56 2. The individual has held the occupational license or government certification in the other state
57 and has engaged in active practice for at least one year;

58 3. The board in the other state required the individual to pass an examination, or to meet certain
59 standards related to education, training, or experience;

60 4. The board in the other state holds the individual in good standing;

61 5. The individual does not have a disqualifying criminal record under state law, as determined by
62 the board in the Commonwealth;

63 6. No board in another state revoked the individual's occupational license or government
64 certification because of negligence or intentional misconduct related to the individual's work in the
65 occupation;

66 7. The individual did not surrender an occupational license or government certification because of
67 negligence or intentional misconduct related to the individual's work in the occupation in another state;

68 8. The individual does not have a complaint, allegation, or investigation relating to unprofessional
69 conduct or an alleged crime that is pending before a board in another state. If the individual has a
70 complaint, allegation, or investigation pending, the board in the Commonwealth shall not issue or deny
71 an occupational license or government certification to the individual until the complaint, allegation, or
72 investigation is resolved or the individual otherwise meets the criteria for an occupational license or
73 government certification in the Commonwealth to the satisfaction of the board in the Commonwealth; and

74 9. The individual pays all applicable fees pursuant to § 54.1-103.8.

75 B. If another state issued the individual a government certification but the Commonwealth requires
76 an occupational license to work, the board in the Commonwealth shall, upon application, issue an
77 occupational license to the individual if the individual otherwise satisfies the requirements in subsection

78 A.

79 **§ 54.1-103.2. Licensure by endorsement; private certification.**

80 The regulatory boards within the Department of Professional and Occupational Regulation and the
81 Department of Health Professions shall, upon application by an individual, recognize private certification
82 in another state as fulfillment of qualifications for licensure or government certification in the
83 Commonwealth if the following conditions are met:

84 1. The individual holds a private certification and worked in another state that does not use an
85 occupational license or government certification to regulate a lawful occupation, but the Commonwealth
86 uses an occupational license or government certification to regulate a lawful occupation with a similar
87 scope of practice, as determined by the board;

88 2. The individual has engaged in active practice for at least two years in the lawful occupation;

89 3. The individual holds a current and valid private certification in the lawful occupation;

90 4. The private certifying organization holds the individual in good standing; and

91 5. The individual satisfies subdivisions A 5 through 9 of § 54.1-103.1.

92 **§ 54.1-103.3. State law examination.**

93 The regulatory boards within the Department of Professional and Occupational Regulation or the
94 Department of Health Professions may require an individual to pass a jurisprudential examination specific
95 to relevant state laws that regulate the occupation if an occupational license or government certification
96 in the Commonwealth requires an individual to pass a jurisprudential examination specific to relevant
97 state statutes and administrative rules that regulate the occupation.

98 **§ 54.1-103.4. Decision.**

99 A regulatory board will provide an individual with a written decision regarding his application
100 submitted pursuant to § 54.1-103.1 or 54.1-103.2 within 60 days of receipt of a complete application.

101 **§ 54.1-103.5. Appeal.**

102 A. An individual may appeal the decision of a regulatory board made pursuant to § 54.1-103.4 to
103 a court of general jurisdiction.

104 B. The individual may appeal the board's (i) denial of an occupational license or government
105 certification; (ii) determination of the occupation; (iii) determination of the similarity of the scope of

106 practice of the occupational license or government certification issued; or (iv) other determinations made
107 pursuant to §§ 54.1-103.1 through 54.1-103.4.

108 **§ 54.1-103.6. State laws and jurisdiction.**

109 An individual who obtains an occupational license or government certification pursuant to §§ 54.1-
110 103.1 through 54.1-103.4 is subject to (i) the laws regulating the occupation in the Commonwealth and
111 (ii) the jurisdiction of the regulatory board in the Commonwealth.

112 **§ 54.1-103.7. Limitations.**

113 A. An occupational license or government certification issued pursuant to §§ 54.1-103.1 through
114 54.1-103.6 is valid only in the Commonwealth. Such license or certification does not grant the individual
115 eligibility to work in another state under an interstate compact or reciprocity agreement, unless otherwise
116 provided by law.

117 B. Nothing in §§ 54.1-103.1 through 54.1-103.6 shall be construed to:

118 1. Prevent the Commonwealth from entering into a licensing compact or reciprocity agreement
119 with another state, foreign province, or foreign country;

120 2. Prevent the Commonwealth from recognizing occupational credentials issued by a private
121 certifying organization, foreign province, foreign country, international organization, or other entity; or

122 3. Require a private certifying organization to grant or deny private certification to any individual.

123 **§ 54.1-103.8. Cost.**

124 A regulatory board may charge an application fee to an individual, not to exceed \$100 per
125 application, to recoup its costs.

126 **§ 54.1-103.9. Preemption.**

127 The provisions in §§ 54.1-103.1 through 54.1-103.8 shall preempt the laws of any locality that
128 relate to the regulation of occupational licenses and government certifications.

129 **§ 54.1-103.10. Exception.**

130 The provisions in §§ 54.1-103.1 through 54.1-103.9 shall not apply to an occupation regulated by
131 (i) the Supreme Court of Virginia, (ii) the Board of Accountancy, or (iii) the Board of Medicine.

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