

1 HOUSE BILL NO. 304  
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 3 (Proposed by the House Committee for Courts of Justice  
 4 on \_\_\_\_\_)  
 5 (Patron Prior to Substitute--Delegate Freitas)

6 A BILL to amend and reenact §§ 32.1-127 and 54.1-2915 of the Code of Virginia and to amend the Code  
 7 of Virginia by adding in Article 9 of Chapter 4 of Title 18.2 a section numbered 18.2-76.3, relating  
 8 to abortion; born alive infant; treatment and care; penalty.

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

10 **1. That §§ 32.1-127 and 54.1-2915 of the Code of Virginia are amended and reenacted and that the**  
 11 **Code of Virginia is amended by adding in Article 9 of Chapter 4 of Title 18.2 a section numbered**  
 12 **18.2-76.3 as follows:**

13 **§ 18.2-76.3. Failure to provide care and treatment to an infant born alive; penalty.**

14 A. Every health care provider licensed by the Board of Medicine who attempts or assists in the  
 15 attempt to perform an abortion or cause a miscarriage for the purpose of terminating a pregnancy and who  
 16 is present at the time such abortion is attempted or such miscarriage is attempted to be caused shall, in the  
 17 case of an infant who has been born alive, as defined in § 18.2-71.1, following performance of such  
 18 attempted abortion or causing of a miscarriage, (i) exercise the same degree of professional skill, care, and  
 19 diligence to preserve the life and health of the infant who has been born alive as a reasonably diligent and  
 20 conscientious health care practitioner would render to any other child born alive at the same gestational  
 21 age and (ii) take all reasonable steps to ensure the immediate transfer of the infant who has been born alive  
 22 to a hospital for further medical care.

23 B. Any health care provider licensed by the Board of Medicine who fails to comply with the  
 24 provisions of subsection A is guilty of a Class 4 felony.

25 C. The mother of an infant who has been born alive shall not be subject to prosecution for any  
 26 criminal offense pursuant to this section.

27           **§ 32.1-127. Regulations.**

28           A. The regulations promulgated by the Board to carry out the provisions of this article shall be in  
29 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as  
30 established and recognized by medical and health care professionals and by specialists in matters of public  
31 health and safety, including health and safety standards established under provisions of Title XVIII and  
32 Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

33           B. Such regulations:

34           1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing  
35 homes and certified nursing facilities to ensure the environmental protection and the life safety of its  
36 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes  
37 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and  
38 certified nursing facilities, except those professionals licensed or certified by the Department of Health  
39 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing  
40 services to patients in their places of residence; and (v) policies related to infection prevention, disaster  
41 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

42           2. Shall provide that at least one physician who is licensed to practice medicine in this  
43 Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at  
44 each hospital which operates or holds itself out as operating an emergency service;

45           3. May classify hospitals and nursing homes by type of specialty or service and may provide for  
46 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

47           4. Shall also require that each hospital establish a protocol for organ donation, in compliance with  
48 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42  
49 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization  
50 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement  
51 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients  
52 in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ  
53 donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified

54 by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for  
55 tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at  
56 least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of  
57 tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid  
58 interference with organ procurement. The protocol shall ensure that the hospital collaborates with the  
59 designated organ procurement organization to inform the family of each potential donor of the option to  
60 donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall  
61 have completed a course in the methodology for approaching potential donor families and requesting  
62 organ or tissue donation that (a) is offered or approved by the organ procurement organization and  
63 designed in conjunction with the tissue and eye bank community and (b) encourages discretion and  
64 sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition,  
65 the hospital shall work cooperatively with the designated organ procurement organization in educating the  
66 staff responsible for contacting the organ procurement organization's personnel on donation issues, the  
67 proper review of death records to improve identification of potential donors, and the proper procedures  
68 for maintaining potential donors while necessary testing and placement of potential donated organs,  
69 tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the  
70 relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer  
71 of the hospital or his designee knows of such opposition, and no donor card or other relevant document,  
72 such as an advance directive, can be found;

73 5. Shall require that each hospital that provides obstetrical services establish a protocol for  
74 admission or transfer of any pregnant woman who presents herself while in labor;

75 6. Shall also require that each licensed hospital develop and implement a protocol requiring written  
76 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall  
77 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother  
78 and the infant be made and documented. Appropriate referrals may include, but need not be limited to,  
79 treatment services, comprehensive early intervention services for infants and toddlers with disabilities and  
80 their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et

81 seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent  
82 possible, the other parent of the infant and any members of the patient's extended family who may  
83 participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant  
84 to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal  
85 law restrictions, the community services board of the jurisdiction in which the woman resides to appoint  
86 a discharge plan manager. The community services board shall implement and manage the discharge plan;

87 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant  
88 for admission the home's or facility's admissions policies, including any preferences given;

89 8. Shall require that each licensed hospital establish a protocol relating to the rights and  
90 responsibilities of patients which shall include a process reasonably designed to inform patients of such  
91 rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to  
92 patients on admission, shall be consistent with applicable federal law and regulations of the Centers for  
93 Medicare and Medicaid Services;

94 9. Shall establish standards and maintain a process for designation of levels or categories of care  
95 in neonatal services according to an applicable national or state-developed evaluation system. Such  
96 standards may be differentiated for various levels or categories of care and may include, but need not be  
97 limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

98 10. Shall require that each nursing home and certified nursing facility train all employees who are  
99 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting  
100 procedures and the consequences for failing to make a required report;

101 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations,  
102 or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication  
103 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute  
104 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period  
105 of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or  
106 hospital policies and procedures, by the person giving the order, or, when such person is not available

107 within the period of time specified, co-signed by another physician or other person authorized to give the  
108 order;

109 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the  
110 offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the  
111 administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal  
112 vaccination, in accordance with the most recent recommendations of the Advisory Committee on  
113 Immunization Practices of the Centers for Disease Control and Prevention;

114 13. Shall require that each nursing home and certified nursing facility register with the Department  
115 of State Police to receive notice of the registration, reregistration, or verification of registration  
116 information of any person required to register with the Sex Offender and Crimes Against Minors Registry  
117 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in  
118 which the home or facility is located, pursuant to § 9.1-914;

119 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,  
120 whether a potential patient is required to register with the Sex Offender and Crimes Against Minors  
121 Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the  
122 potential patient will have a length of stay greater than three days or in fact stays longer than three days;

123 15. Shall require that each licensed hospital include in its visitation policy a provision allowing  
124 each adult patient to receive visits from any individual from whom the patient desires to receive visits,  
125 subject to other restrictions contained in the visitation policy including, but not limited to, those related to  
126 the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

127 16. Shall require that each nursing home and certified nursing facility shall, upon the request of  
128 the facility's family council, send notices and information about the family council mutually developed by  
129 the family council and the administration of the nursing home or certified nursing facility, and provided  
130 to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice  
131 up to six times per year. Such notices may be included together with a monthly billing statement or other  
132 regular communication. Notices and information shall also be posted in a designated location within the  
133 nursing home or certified nursing facility. No family member of a resident or other resident representative

134 shall be restricted from participating in meetings in the facility with the families or resident representatives  
135 of other residents in the facility;

136 17. Shall require that each nursing home and certified nursing facility maintain liability insurance  
137 coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least  
138 equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries  
139 and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum  
140 insurance shall result in revocation of the facility's license;

141 18. Shall require each hospital that provides obstetrical services to establish policies to follow  
142 when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling  
143 patients and their families and other aspects of managing stillbirths as may be specified by the Board in  
144 its regulations;

145 19. Shall require each nursing home to provide a full refund of any unexpended patient funds on  
146 deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid  
147 to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds  
148 by the discharged patient or, in the case of the death of a patient, the person administering the person's  
149 estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

150 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol  
151 that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct  
152 verbal communication between the on-call physician in the psychiatric unit and the referring physician, if  
153 requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing  
154 a request for such direct verbal communication by a referring physician and (ii) a patient for whom there  
155 is a question regarding the medical stability or medical appropriateness of admission for inpatient  
156 psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in  
157 the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal  
158 communication, either in person or via telephone, with a clinical toxicologist or other person who is a  
159 Certified Specialist in Poison Information employed by a poison control center that is accredited by the  
160 American Association of Poison Control Centers to review the results of the toxicology screen and

161 determine whether a medical reason for refusing admission to the psychiatric unit related to the results of  
162 the toxicology screen exists, if requested by the referring physician;

163           21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall  
164 develop a policy governing determination of the medical and ethical appropriateness of proposed medical  
165 care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical  
166 appropriateness of proposed medical care in cases in which a physician has determined proposed care to  
167 be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed  
168 medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and  
169 a determination by the interdisciplinary medical review committee regarding the medical and ethical  
170 appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision  
171 reached by the interdisciplinary medical review committee, which shall be included in the patient's  
172 medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make  
173 medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical  
174 record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate  
175 in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or  
176 the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to  
177 represent the patient or from seeking other remedies available at law, including seeking court review,  
178 provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-  
179 2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days  
180 of the date on which the physician's determination that proposed medical treatment is medically or  
181 ethically inappropriate is documented in the patient's medical record;

182           22. Shall require every hospital with an emergency department to establish protocols to ensure that  
183 security personnel of the emergency department, if any, receive training appropriate to the populations  
184 served by the emergency department, which may include training based on a trauma-informed approach  
185 in identifying and safely addressing situations involving patients or other persons who pose a risk of harm  
186 to themselves or others due to mental illness or substance abuse or who are experiencing a mental health  
187 crisis;

188           23. Shall require that each hospital establish a protocol requiring that, before a health care provider  
189 arranges for air medical transportation services for a patient who does not have an emergency medical  
190 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized  
191 representative with written or electronic notice that the patient (i) may have a choice of transportation by  
192 an air medical transportation provider or medically appropriate ground transportation by an emergency  
193 medical services provider and (ii) will be responsible for charges incurred for such transportation in the  
194 event that the provider is not a contracted network provider of the patient's health insurance carrier or such  
195 charges are not otherwise covered in full or in part by the patient's health insurance plan;

196           24. Shall establish an exemption, for a period of no more than 30 days, from the requirement to  
197 obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner  
198 has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing  
199 home and that a public health emergency exists due to a shortage of hospital or nursing home beds;

200           25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical  
201 procedure for which the patient can reasonably be expected to require outpatient physical therapy as a  
202 follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical  
203 therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to  
204 being discharged from the hospital;

205           26. Shall permit nursing home staff members who are authorized to possess, distribute, or  
206 administer medications to residents to store, dispense, or administer cannabis oil to a resident who has  
207 been issued a valid written certification for the use of cannabis oil in accordance with subsection B of §  
208 54.1-3408.3 and has registered with the Board of Pharmacy;

209           27. Shall require each hospital with an emergency department to establish a protocol for the  
210 treatment and discharge of individuals experiencing a substance use-related emergency, which shall  
211 include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-  
212 related emergencies to identify medical interventions necessary for the treatment of the individual in the  
213 emergency department and (ii) recommendations for follow-up care following discharge for any patient  
214 identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which



215 may include, for patients who have been treated for substance use-related emergencies, including opioid  
216 overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for  
217 overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription  
218 for and information about accessing naloxone or other opioid antagonist used for overdose reversal,  
219 including information about accessing naloxone or other opioid antagonist used for overdose reversal at a  
220 community pharmacy, including any outpatient pharmacy operated by the hospital, or through a  
221 community organization or pharmacy that may dispense naloxone or other opioid antagonist used for  
222 overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also  
223 provide for referrals of individuals experiencing a substance use-related emergency to peer recovery  
224 specialists and community-based providers of behavioral health services, or to providers of  
225 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

226 28. During a public health emergency related to COVID-19, shall require each nursing home and  
227 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with  
228 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare  
229 and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions,  
230 including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility,  
231 and community, under which in-person visits will be allowed and under which in-person visits will not be  
232 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will  
233 be required to comply to protect the health and safety of the patients and staff of the nursing home or  
234 certified nursing facility; (iii) the types of technology, including interactive audio or video technology,  
235 and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the  
236 steps the nursing home or certified nursing facility will take in the event of a technology failure, service  
237 interruption, or documented emergency that prevents visits from occurring as required by this subdivision.  
238 Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and  
239 in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each  
240 patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit  
241 visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a

242 requirement that each nursing home and certified nursing facility publish on its website or communicate  
243 to each patient or the patient's authorized representative, in writing or via electronic means, the nursing  
244 home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

245 29. Shall require each hospital, nursing home, and certified nursing facility to establish and  
246 implement policies to ensure the permissible access to and use of an intelligent personal assistant provided  
247 by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall  
248 ensure protection of health information in accordance with the requirements of the federal Health  
249 Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the  
250 purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device  
251 and a specialized software application designed to assist users with basic tasks using a combination of  
252 natural language processing and artificial intelligence, including such combinations known as "digital  
253 assistants" or "virtual assistants"; ~~and~~

254 30. During a declared public health emergency related to a communicable disease of public health  
255 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to  
256 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or  
257 sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for  
258 Medicare and Medicaid Services and subject to compliance with any executive order, order of public  
259 health, Department guidance, or any other applicable federal or state guidance having the effect of limiting  
260 visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be  
261 conducted virtually using interactive audio or video technology. Any such protocol may require the person  
262 visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital,  
263 nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients,  
264 and staff of the hospital, nursing home, or certified nursing facility; and

265 31. Shall require every hospital to establish a protocol for (i) the treatment and care of an infant  
266 who has been born alive, as that term is defined in § 18.2-71.1, and (ii) requiring the immediate reporting  
267 to law enforcement of any failure of any health care provider required to provide treatment and care to an  
268 infant who has been born alive in accordance with the provisions of clause (i) or § 18.2-76.3.

269 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and  
270 certified nursing facilities may operate adult day care centers.

271 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for  
272 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot  
273 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to  
274 be contaminated with an infectious agent, those hemophiliacs who have received units of this  
275 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot  
276 that is known to be contaminated shall notify the recipient's attending physician and request that he notify  
277 the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return  
278 receipt requested, each recipient who received treatment from a known contaminated lot at the individual's  
279 last known address.

280 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for  
281 the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

282 **§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.**

283 A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person;  
284 place any person on probation for such time as it may designate; impose a monetary penalty or terms as it  
285 may designate on any person; suspend any license for a stated period of time or indefinitely; or revoke  
286 any license for any of the following acts of unprofessional conduct:

287 1. False statements or representations or fraud or deceit in obtaining admission to the practice, or  
288 fraud or deceit in the practice of any branch of the healing arts;

289 2. Substance abuse rendering him unfit for the performance of his professional obligations and  
290 duties;

291 3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or  
292 is likely to cause injury to a patient or patients;

293 4. Mental or physical incapacity or incompetence to practice his profession with safety to his  
294 patients and the public;

- 295           5. Restriction of a license to practice a branch of the healing arts in another state, the District of  
296 Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal  
297 government;
- 298           6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in  
299 procuring or performing a criminal abortion;
- 300           7. Engaging in the practice of any of the healing arts under a false or assumed name, or  
301 impersonating another practitioner of a like, similar, or different name;
- 302           8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used  
303 otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with  
304 respect to the sale, use, or disposition of such drug;
- 305           9. Violating provisions of this chapter on division of fees or practicing any branch of the healing  
306 arts in violation of the provisions of this chapter;
- 307           10. Knowingly and willfully committing an act that is a felony under the laws of the  
308 Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral  
309 turpitude;
- 310           11. Aiding or abetting, having professional connection with, or lending his name to any person  
311 known to him to be practicing illegally any of the healing arts;
- 312           12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the  
313 healing arts;
- 314           13. Conducting his practice in such a manner as to be a danger to the health and welfare of his  
315 patients or to the public;
- 316           14. Inability to practice with reasonable skill or safety because of illness or substance abuse;
- 317           15. Publishing in any manner an advertisement relating to his professional practice that contains a  
318 claim of superiority or violates Board regulations governing advertising;
- 319           16. Performing any act likely to deceive, defraud, or harm the public;
- 320           17. Violating any provision of statute or regulation, state or federal, relating to the manufacture,  
321 distribution, dispensing, or administration of drugs;

322 18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-  
323 100 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;

324 19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and  
325 patient relationship or otherwise engaging at any time during the course of the practitioner and patient  
326 relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;

327 20. Conviction in any state, territory, or country of any felony or of any crime involving moral  
328 turpitude;

329 21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect  
330 and the person has not been declared restored to competence or capacity;

331 22. Performing the services of a medical examiner as defined in 49 C.F.R. § 390.5 if, at the time  
332 such services are performed, the person performing such services is not listed on the National Registry of  
333 Certified Medical Examiners as provided in 49 C.F.R. § 390.109 or fails to meet the requirements for  
334 continuing to be listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R.  
335 § 390.111;

336 23. Failing or refusing to complete and file electronically using the Electronic Death Registration  
337 System any medical certification in accordance with the requirements of subsection C of § 32.1-263.  
338 However, failure to complete and file a medical certification electronically using the Electronic Death  
339 Registration System in accordance with the requirements of subsection C of § 32.1-263 shall not constitute  
340 unprofessional conduct if such failure was the result of a temporary technological or electrical failure or  
341 other temporary extenuating circumstance that prevented the electronic completion and filing of the  
342 medical certification using the Electronic Death Registration System;~~or~~

343 24. Engaging in a pattern of violations of § 38.2-3445.01; or

344 25. Failing to comply with the requirements of § 18.2-76.3.

345 B. The commission or conviction of an offense in another state, territory, or country, which if  
346 committed in Virginia would be a felony, shall be treated as a felony conviction or commission under this  
347 section regardless of its designation in the other state, territory, or country.

348 C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or  
349 applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended,  
350 and has not had his certificate or license to so practice reinstated, in another state, the District of Columbia,  
351 a United States possession or territory, or a foreign jurisdiction.

352 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
353 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**  
354 **appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities;**  
355 **therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia**  
356 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-**  
357 **19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods**  
358 **of commitment to the custody of the Department of Juvenile Justice.**

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