

1 HOUSE BILL NO. 1754

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

4 on January 24, 2023)

5 (Patron Prior to Substitute--Delegate Head)

6 A BILL to amend and reenact § 54.1-2901 of the Code of Virginia, relating to telemedicine.

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

8 **1. That § 54.1-2901 of the Code of Virginia is amended and reenacted as follows:**

9 **§ 54.1-2901. Exceptions and exemptions generally.**

10 A. The provisions of this chapter shall not prevent or prohibit:

11 1. Any person entitled to practice his profession under any prior law on June 24, 1944, from
12 continuing such practice within the scope of the definition of his particular school of practice;

13 2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such
14 practice in accordance with regulations promulgated by the Board;

15 3. Any licensed nurse practitioner from rendering care in accordance with the provisions of §§
16 54.1-2957 and 54.1-2957.01, any nurse practitioner licensed by the Boards of Medicine and Nursing in
17 the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any nurse
18 practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist
19 practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations
20 promulgated jointly by the Boards of Medicine and Nursing;

21 4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or
22 other technical personnel who have been properly trained from rendering care or services within the scope
23 of their usual professional activities which shall include the taking of blood, the giving of intravenous
24 infusions and intravenous injections, and the insertion of tubes when performed under the orders of a
25 person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

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

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

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

37 8. The domestic administration of family remedies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

138 33. Any doctor of medicine or osteopathy, physician assistant, or nurse practitioner who would
139 otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state,
140 the District of Columbia, or a United States territory or possession and who is in good standing with the
141 applicable regulatory agency in that state, the District of Columbia, or that United States territory or
142 possession who provides behavioral health services, as defined in § 37.2-100, from engaging in the
143 practice of his profession and providing behavioral health services to a patient located in the
144 Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of
145 providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii)
146 the practitioner has previously established a practitioner-patient relationship with the patient and has
147 performed an in-person evaluation of the patient within the previous year. A practitioner who provides
148 behavioral health services to a patient located in the Commonwealth through use of telemedicine services
149 pursuant to this subdivision may provide such services for a period of no more than one year from the date
150 on which the practitioner began providing such services to such patient;

151 34. Any employee of a program licensed by the Department of Behavioral Health and
152 Developmental Services who is certified in cardiopulmonary resuscitation from acting in compliance with
153 a program participant's valid written order not to resuscitate issued in accordance with § 54.1-2987.1 if
154 such valid written order not to resuscitate is included in the program participant's individualized service
155 plan; or

156 35. ~~Any practitioner of a profession regulated by the Board of Medicine who is licensed~~ doctor of
157 medicine or osteopathy, physician assistant, respiratory therapist, occupational therapist, or nurse

158 practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted
159 license in another state or the District of Columbia and who is in good standing with the applicable
160 regulatory agency in that state or the District of Columbia from engaging in the practice of that profession
161 in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the
162 purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-
163 3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has
164 previously established a practitioner-patient relationship and the practitioner has performed an in-person
165 examination of the patient within the previous 12 months. For purposes of this subdivision, if such
166 practitioner with whom the patient has previously established a practitioner-patient relationship is
167 unavailable at the time in which the patient seeks continuity of care, another practitioner of the same
168 subspecialty at the same group practice with access to the patient's treatment history may provide
169 continuity of care using telemedicine services until the practitioner with whom the patient has a previously
170 established relationship becomes available. For the purposes of this subdivision, "practitioner of the same
171 subspecialty" means a practitioner who utilizes the same subspecialty taxonomy code designation for
172 claims processing. For the purposes of this subdivision, if a patient is (a) an enrollee of a health
173 maintenance organization that contracts with a multispecialty group of practitioners, each of whom is
174 licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member
175 of the multispecialty group with whom such practitioner has previously established a practitioner-patient
176 relationship and of whom such practitioner has performed an in-person examination within the previous
177 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty
178 group with whom each such practitioner has established a practitioner-patient relationship.

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

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