

SENATE BILL NO. 1119

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

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

(Patron Prior to Substitute--Senator Stuart)

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

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

**1. That § 54.1-2901 of the Code of Virginia is 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 infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

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

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

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

38           8. The domestic administration of family remedies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

159 practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted  
160 license in another state or the District of Columbia and who is in good standing with the applicable  
161 regulatory agency in that state or the District of Columbia from engaging in the practice of that profession  
162 in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the  
163 purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-  
164 3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has  
165 previously established a practitioner-patient relationship and the practitioner has performed an in-person  
166 examination of the patient within the previous 12 months.

167 For purposes of this subdivision, if such practitioner with whom the patient has previously  
168 established a practitioner-patient relationship is unavailable at the time in which the patient seeks  
169 continuity of care, another practitioner of the same subspecialty at the same practice group with access to  
170 the patient's treatment history may provide continuity of care using telemedicine services until the  
171 practitioner with whom the patient has a previously established practitioner-patient relationship becomes  
172 available. For purposes of this subdivision, "practitioner of the same subspecialty" means a practitioner  
173 who utilizes the same subspecialty taxonomy code designation for claims processing.

174 For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance  
175 organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the  
176 Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the  
177 multispecialty group with whom such practitioner has previously established a practitioner-patient  
178 relationship and of whom such practitioner has performed an in-person examination within the previous  
179 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty  
180 group with whom each such practitioner has established a practitioner-patient relationship.

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

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