

1 SENATE BILL NO. 403
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the Senate Committee on Education and Health
4 on _____)
5 (Patron Prior to Substitute--Senator Durant)

6 A BILL to amend and reenact §§ 54.1-3500 and 54.1-3505 of the Code of Virginia and to amend the Code
7 of Virginia by adding in Chapter 35 of Title 54.1 an article numbered 4, consisting of sections
8 numbered 54.1-3518 through 54.1-3521, relating to behavioral health technicians; qualified mental
9 health professionals scope of practice, supervision, and qualifications.

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

11 **1. That §§ 54.1-3500 and 54.1-3505 of the Code of Virginia are amended and reenacted and that the**
12 **Code of Virginia is amended by adding in Chapter 35 of Title 54.1 an article numbered 4, consisting**
13 **of sections numbered 54.1-3518 through 54.1-3521, as follows:**

14 **§ 54.1-3500. Definitions.**

15 As used in this chapter, unless the context requires a different meaning:

16 "Appraisal activities" means the exercise of professional judgment based on observations and
17 objective assessments of a client's behavior to evaluate current functioning, diagnose, and select
18 appropriate treatment required to remediate identified problems or to make appropriate referrals.

19 "Art therapist" means a person who has (i) completed a master's or doctoral degree program in art
20 therapy, or an equivalent course of study, from an accredited educational institution; (ii) satisfied the
21 requirements for licensure set forth in regulations adopted by the Board; and (iii) been issued a license for
22 the independent practice of art therapy by the Board.

23 "Art therapy" means the integrated use of psychotherapeutic principles, visual art media, and the
24 creative process in the assessment, treatment, and remediation of psychosocial, emotional, cognitive,
25 physical, and developmental disorders in children, adolescents, adults, families, or groups.

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

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

37 "Behavioral health technician assistant" means a person who has completed a high school diploma
38 or equivalent, at a minimum, and registered with the Board to practice in accordance with the regulations
39 of the Board and the provisions of § 54.1-3519 to provide collaborative behavioral health services.

40 "Board" means the Board of Counseling.

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

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

45 "Collaborative behavioral health services" means those supportive services that are provided by a
46 registered behavioral health technician, registered behavioral health technician assistant, registered
47 qualified mental health professional, or registered qualified mental health professional-trainee under the

48 direction of and in collaboration with either a mental health professional licensed in the Commonwealth
49 or a person under supervision as a prerequisite for licensure who has been approved by the Board of
50 Counseling, Board of Psychology, or Board of Social Work, or a registered qualified mental health
51 professional who has met the supervisor requirements to supervise behavioral health technicians and
52 behavioral health technician assistants.

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

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

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

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

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

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

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

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

84 "Qualified mental health professional" means a person who has (i) completed, at a minimum, a
85 bachelor's degree; (ii) registered with the Board to practice in accordance with the provisions of § 54.1-
86 3520 and the regulations of the Board; and (iii) a combination of work, training, or experience in providing
87 collaborative behavioral health services for youth or adults. A "qualified mental health professional"
88 includes a qualified mental health professional-adult and qualified mental health
89 professionals-child professional-child. A "qualified mental health professional" shall provide such
90 services as an employee or independent contractor of the Department of Behavioral Health and
91 Developmental Services, the Department of Corrections, or the Department of Education or as a provider
92 licensed by the Department of Behavioral Health and Developmental Services.

93 "Qualified mental health professional-adult" means a qualified mental health professional who
94 provides collaborative mental behavioral health services for adults. ~~A qualified mental health professional-~~
95 ~~adult shall provide such services as an employee or independent contractor of the Department of~~

96 Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed
97 by the Department of Behavioral Health and Developmental Services.

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

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

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

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

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

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

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

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

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

129 **§ 54.1-3505. Specific powers and duties of the Board.**

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

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

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

136 3. To designate specialties within the profession.

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

140 5. [Expired.]

141 6. To promulgate regulations for the qualifications, education, and experience for licensure of
142 marriage and family therapists. The requirements for clinical membership in the American Association
143 for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage
144 and family therapy examination may be considered by the Board in the promulgation of these regulations.
145 The educational credit hour, clinical experience hour, and clinical supervision hour requirements for

146 marriage and family therapists shall not be less than the educational credit hour, clinical experience hour,
147 and clinical supervision hour requirements for professional counselors.

148 7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter,
149 regulations for the qualifications, education, and experience for licensure of licensed substance abuse
150 treatment practitioners and certification of certified substance abuse counselors and certified substance
151 abuse counseling assistants. The requirements for membership in NAADAC: the Association for
152 Addiction Professionals and its national examination may be considered by the Board in the promulgation
153 of these regulations. The Board also may provide for the consideration and use of the accreditation and
154 examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational
155 credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance
156 abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour,
157 and clinical supervision hour requirements for licensed professional counselors. Such regulations also
158 shall establish standards and protocols for the clinical supervision of certified substance abuse counselors
159 and the supervision or direction of certified substance abuse counseling assistants, and reasonable access
160 to the persons providing that supervision or direction in settings other than a licensed facility.

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

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

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

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

175 Article 4.

176 Behavioral Health Technicians and Qualified Mental Health Professionals.

177 **§ 54.1-3518. Scope of practice, supervision, and qualifications of registered behavioral health**
178 **technicians.**

179 A. A registered behavioral health technician shall be (i) qualified to perform, under Board-
180 approved supervision, collaborative behavioral health services, including training on prevention of mental
181 health and substance use disorders, and mental health literacy and the supportive functions of screening,
182 intake, orientation, care coordination, client education, and recordkeeping and (ii) after three years of
183 practicing as a behavioral health technician in good standing and completion of the required behavioral
184 health technician supervisor training set forth by the Board, qualified to supervise, as part of a
185 collaborative team, behavioral health technicians and behavioral health technician assistants. A registered
186 behavioral health technician shall not engage in independent or autonomous practice and shall only
187 perform collaborative behavioral health services.

188 B. Such registered behavioral health technician shall be supervised by a mental health professional
189 licensed by the Department of Health Professions, a person under supervision that has been approved by
190 the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure
191 who has completed the required supervisor training, or a registered qualified mental health professional
192 who has taken the required training set forth by the Board.

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

199 **§ 54.1-3519. Scope of practice, supervision, and qualifications of registered behavioral health**
200 **technician assistants.**

201 A. A registered behavioral health technician assistant shall be qualified to perform, under Board-
202 approved supervision, collaborative behavioral health services, including training on prevention of mental
203 health and substance use disorders, and mental health literacy and the supportive functions of screening,
204 intake, orientation, care coordination, client education, and recordkeeping. A registered behavioral health
205 technician assistant shall not engage in independent or autonomous practice and shall only provide
206 collaborative behavioral health services.

207 B. Such registered behavioral health technician assistants shall be supervised by either a mental
208 health professional licensed by the Department of Health Professions who has completed the required
209 supervisor training, a person under supervision that has been approved by the Board of Counseling, Board
210 of Psychology, or Board of Social Work as a prerequisite for licensure who has completed the required
211 supervisor training, a registered qualified mental health professional who has practiced for three years and
212 completed the required supervisor training, or a registered behavioral health technician who has practiced
213 for three years and completed the required supervisor training.

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

218 **§ 54.1-3520. Scope of practice, supervision, and qualifications of qualified mental health**
219 **professionals.**

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

229 B. Such registered qualified mental health professionals shall be supervised by either a mental
230 health professional licensed by the Department of Health Professions who has completed the required
231 supervisor training, a person under supervision that has been approved by the Board of Counseling, Board
232 of Psychology, or Board of Social Work as a prerequisite for licensure who has completed the required
233 supervisor training, or a registered qualified mental health professional who has practiced for three years
234 and completed the required supervisor training.

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

241 **§ 54.1-3521. Scope of practice, supervision, and qualifications of qualified mental health**
242 **professional-trainees.**

243 A. A qualified mental health professional-trainee shall be qualified to perform, under Board-
244 approved supervision, collaborative behavioral health services, including the supportive functions of (i)
245 screening; (ii) intake; (iii) orientation; (iv) care coordination; (v) client education; (vi) referral activities;
246 (vii) initiating crisis de-escalation; (viii) gathering histories of mental and physical health conditions,
247 alcohol and drug use, past mental health treatment, and interactions with the criminal justice system; (ix)
248 providing psychosocial skills development; and (x) implementing interventions as assigned on individual
249 plans of care and documenting the interventions for the purposes of recordkeeping. A registered qualified
250 mental health professional-trainee shall not engage in independent or autonomous practice and shall only
251 perform collaborative behavioral health services.

252 B. Such registered qualified mental health professional-trainees shall be supervised by a mental
253 health professional licensed by the Department of Health Professions who has completed the required
254 supervisor training, a person under supervision that has been approved by the Board of Counseling, Board
255 of Psychology, or Board of Social Work as a prerequisite for licensure and who has completed the required
256 supervisor training, or a registered qualified mental health professional who has practiced for three years
257 and completed the required supervisor training.

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

265 **2. That the Board of Counseling's initial adoption of regulations necessary to implement the**
266 **provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the**

267 Code of Virginia), except that the Board of Counseling shall provide an opportunity for public
268 comment on the regulations prior to adoption of such regulations.

269 3. That the Board of Counseling shall adopt regulations in accordance with this act to be effective
270 by November 1, 2024.

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