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SENATE BILL NO. 1119

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 54.1-2901, 54.1-3601, and 54.1-3701 of the Code of Virginia, relating to telemedicine; extension of time period for provision of services.

Patron—Stuart

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2901, 54.1-3601, and 54.1-3701 of the Code of Virginia are 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;

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

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

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

8. The domestic administration of family remedies;

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

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

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

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

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

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

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

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

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

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

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

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

79 21. Qualified emergency medical services personnel, when acting within the scope of their
80 certification, and licensed health care practitioners, when acting within their scope of practice, from
81 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of
82 Health regulations, or licensed health care practitioners from following any other written order of a
83 physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

84 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
85 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
86 § 54.1-106;

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

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

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

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

102 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering
103 free health care to an underserved population of Virginia who (i) does not regularly practice his
104 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another
105 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to
106 an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer,
107 nonprofit organization that sponsors the provision of health care to populations of underserved people,
108 (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v)
109 notifies the Board at least five business days prior to the voluntary provision of services of the dates and
110 location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be
111 valid, in compliance with the Board's regulations, during the limited period that such free health care is
112 made available through the volunteer, nonprofit organization on the dates and at the location filed with
113 the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts
114 whose license or certificate has been previously suspended or revoked, who has been convicted of a
115 felony or who is otherwise found to be in violation of applicable laws or regulations. However, the
116 Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer
117 services without prior notice for a period of up to three days, provided the nonprofit organization
118 verifies that the practitioner has a valid, unrestricted license in another state;

119 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens
120 of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as

121 defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division
122 of Consolidated Laboratories or other public health laboratories, designated by the State Health
123 Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in
124 § 32.1-49.1;

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

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

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

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

143 33. Any doctor of medicine or osteopathy, physician assistant, or nurse practitioner who would
144 otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state,
145 the District of Columbia, or a United States territory or possession and who is in good standing with the
146 applicable regulatory agency in that state, the District of Columbia, or that United States territory or
147 possession who provides behavioral health services, as defined in § 37.2-100, from engaging in the
148 practice of his profession and providing behavioral health services to a patient located in the
149 Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of
150 providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and
151 (ii) the practitioner has previously established a practitioner-patient relationship with the patient and has
152 performed an in-person evaluation of the patient within the previous ~~year~~ 3 years. A practitioner who
153 provides behavioral health services to a patient located in the Commonwealth through use of
154 telemedicine services pursuant to this subdivision may provide such services for a period of no more
155 than one year from the date on which the practitioner began providing such services to such patient;

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

160 35. Any practitioner of a profession regulated by the Board of Medicine, *or jointly by the Boards of*
161 *Medicine and Nursing, and* who is licensed in another state or the District of Columbia and who is in
162 good standing with the applicable regulatory agency in that state or the District of Columbia from
163 engaging in the practice of that profession in the Commonwealth with a patient located in the
164 Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use
165 of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient is a current patient of the
166 practitioner, *or of another practitioner of the same specialty or subspecialty who belongs to the same*
167 *group practice, with whom the practitioner has previously established a practitioner-patient relationship*
168 *and the practitioner, or another practitioner of the same specialty or subspecialty who belongs to the*
169 *same group practice, has performed an in-person examination of the patient within the previous ~~12~~*
170 *months three years. For the purposes of this subdivision, "practitioner of the same specialty or*
171 *subspecialty" means a practitioner who utilizes the same specialty or subspecialty taxonomy code*
172 *designation for claims processing. For the purposes of this subdivision, if a patient is (a) an enrollee of*
173 *a health maintenance organization that contracts with a multispecialty group of practitioners, each of*
174 *whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is*
175 *a member of the multispecialty group with whom such practitioner has previously established a*
176 *practitioner-patient relationship and of whom such practitioner has performed an in-person examination*
177 *within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in*
178 *the multispecialty group with whom each such practitioner has established a practitioner-patient*
179 *relationship.*

180 B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as
181 defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans

182 Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or
183 podiatrist or the chief medical officer of an organization participating in such program, or his designee
184 who is a licensee of the Board and supervising within his scope of practice.

185 **§ 54.1-3601. Exemption from requirements of licensure.**

186 The requirements for licensure provided for in this chapter shall not be applicable to:

187 1. Persons who render services that are like or similar to those falling within the scope of the
188 classifications or categories in this chapter, so long as the recipients or beneficiaries of such services are
189 not subject to any charge or fee, or any financial requirement, actual or implied, and the person
190 rendering such service is not held out, by himself or otherwise, as a licensed practitioner or a provider
191 of clinical or school psychology services.

192 2. The activities or services of a student pursuing a course of study in psychology in an institution
193 accredited by an accrediting agency recognized by the Board or under the supervision of a practitioner
194 licensed or certified under this chapter, if such activities or services constitute a part of his course of
195 study and are adequately supervised.

196 3. The activities of rabbis, priests, ministers or clergymen of any religious denomination or sect when
197 such activities are within the scope of the performance of their regular or specialized ministerial duties,
198 and no separate charge is made or when such activities are performed, whether with or without charge,
199 for or under the auspices or sponsorship, individually or in conjunction with others, of an established
200 and legally cognizable church, denomination or sect, and the person rendering service remains
201 accountable to its established authority.

202 4. Persons employed as salaried employees or volunteers of the federal government, the
203 Commonwealth, a locality, or any agency established or funded, in whole or part, by any such
204 governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or
205 part, by a community-based citizen group or organization, except that any such person who renders
206 psychological services, as defined in this chapter, shall be (i) supervised by a licensed psychologist or
207 clinical psychologist; (ii) licensed by the Department of Education as a school psychologist; or (iii)
208 employed by a school for students with disabilities which is certified by the Board of Education. Any
209 person who, in addition to the above-enumerated employment, engages in an independent private
210 practice shall not be exempt from the licensure requirements.

211 5. Persons regularly employed by private business firms as personnel managers, deputies or assistants
212 so long as their counseling activities relate only to employees of their employer and in respect to their
213 employment.

214 6. Any psychologist holding a license or certificate in another state, the District of Columbia, or a
215 United States territory or foreign jurisdiction consulting with licensed psychologists in this
216 Commonwealth.

217 7. Any psychologist holding a license or certificate in another state, the District of Columbia, or a
218 United States territory or foreign jurisdiction when in Virginia temporarily and such psychologist has
219 been issued a temporary license by the Board to participate in continuing education programs or
220 rendering psychological services without compensation to any patient of any clinic which is organized in
221 whole or in part for the delivery of health care services without charge as provided in § 54.1-106.

222 8. The performance of the duties of any commissioned or contract clinical psychologist in active
223 service in the army, navy, coast guard, marine corps, air force, or public health service of the United
224 States while such individual is so commissioned or serving.

225 9. Any person performing services in the lawful conduct of his particular profession or business
226 under state law.

227 10. Any person duly licensed as a psychologist in another state or the District of Columbia who
228 testifies as a treating psychologist or who is employed as an expert for the purpose of possibly testifying
229 as an expert witness.

230 11. Any psychologist who is licensed in another state, the District of Columbia, or a United States
231 territory or possession and who is in good standing with the applicable regulatory agency in that state,
232 the District of Columbia, or that United States territory or possession who provides behavioral health
233 services, as defined in § 37.2-100, to a patient located in the Commonwealth when (i) such practice is
234 for the purpose of providing continuity of care through the use of telemedicine services as defined in §
235 38.2-3418.16 and (ii) the psychologist has previously established a practitioner-patient relationship with
236 the patient. A psychologist who provides behavioral health services to a patient located in the
237 Commonwealth through use of telemedicine services pursuant to this subdivision may provide such
238 services for a period of no more than ~~one year~~ *three years* from the date on which the psychologist
239 began providing such services to such patient.

240 **§ 54.1-3701. Exemption from requirements of licensure.**

241 The requirements for licensure provided for in this chapter shall not be applicable to:

242 1. Persons who render services that are like or similar to those falling within the scope of the
243 classifications or categories in this chapter, so long as the recipients or beneficiaries of such services are

244 not subject to any charge or fee, or any financial requirement, actual or implied, and the person
245 rendering such service is not held out, by himself or otherwise, as a licensed practitioner.

246 2. The activities or services of a student pursuing a course of study in social work in an institution
247 recognized by the Board for purposes of licensure upon completion of the course of study or under the
248 supervision of a practitioner licensed under this chapter; if such activities or services constitute a part of
249 his course of study and are adequately supervised.

250 3. The activities of rabbis, priests, ministers or clergymen of any religious denomination or sect when
251 such activities are within the scope of the performance of their regular or specialized ministerial duties,
252 and no separate charge is made or when such activities are performed, whether with or without charge,
253 for or under auspices or sponsorship, individually or in conjunction with others, of an established and
254 legally cognizable church, denomination or sect, and the person rendering service remains accountable to
255 its established authority.

256 4. Persons employed as salaried employees or volunteers of the federal government, the
257 Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such
258 governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or
259 part, by a community-based citizen group or organization. Any person who renders psychological
260 services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements
261 of that chapter. Any person who, in addition to the above-enumerated employment, engages in an
262 independent private practice shall not be exempt from the requirements for licensure.

263 5. Persons regularly employed by private business firms as personnel managers, deputies or assistants
264 so long as their counseling activities relate only to employees of their employer and in respect to their
265 employment.

266 6. Any person who is licensed to practice as a clinical social worker in another state, the District of
267 Columbia, or a United States territory or possession and who is in good standing with the applicable
268 regulatory agency in that state, the District of Columbia, or that United States territory or possession
269 who provides behavioral health services, as defined in § 37.2-100, to a patient located in the
270 Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use
271 of telemedicine services as defined in § 38.2-3418.16 and (ii) the clinical social worker has previously
272 established a practitioner-patient relationship with the patient. A person who is licensed to practice as
273 clinical social worker who provides behavioral health services to a patient located in the Commonwealth
274 through use of telemedicine services pursuant to this subdivision may provide such services for a period
275 of no more than ~~one year~~ *three years* from the date on which the clinical social worker began providing
276 such services to such patient.