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**HOUSE BILL NO. 2131**

Offered January 13, 2025

Prefiled January 7, 2025

A *BILL to amend and reenact § 54.1-2901 of the Code of Virginia, relating to professions and occupations; practice of medicine; advertising of prescription drugs or devices.*

Patron—Milde

Referred to Committee on General Laws

**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 advanced practice registered nurse from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01, any advanced practice registered nurse 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 advanced practice registered nurse 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 advanced practice registered nurse, 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, an advanced practice registered nurse, 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 advanced practice registered nurse, 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 *or the sale of prescription drugs or devices. For the purposes of this subdivision, "commercial appliances or remedies" does not include prescription drugs or devices, as those terms are defined in § 54.1-3401;*

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 advanced practice registered nurse, 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

59 compensation;

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

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

74 18. Any masseur, who publicly represents himself as such, from performing services within the scope of  
75 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 business  
77 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 certification,  
80 and licensed health care practitioners, when acting within their scope of practice, from following Durable Do  
81 Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed  
82 health care practitioners from following any other written order of a physician not to resuscitate a patient in  
83 the event of cardiac or respiratory arrest;

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

86 23. Any person from engaging in the five needle auricular acupuncture protocol (5NP), a standardized  
87 five needle protocol wherein up to five needles are inserted into the external human ear to provide relief from  
88 the effects of behavioral health conditions, provided such person (i) has appropriate training in the 5NP,  
89 including training established by the National Acupuncture Detoxification Association or equivalent  
90 certifying body; (ii) does not use any letters, words, or insignia indicating or implying that the person is an  
91 acupuncturist; and (iii) makes no statements implying that his practice of the 5NP is licensed, certified, or  
92 otherwise overseen by the Commonwealth. Treatment utilizing the 5NP pursuant to this subdivision shall be  
93 strictly limited to the insertion of disposable, sterile acupuncture needles into the ear and only in compliance  
94 with the 5NP. The application or insertion of needles anywhere else on the body of another person by a  
95 person acting under the provisions of this subdivision shall be considered engaging in the practice of  
96 acupuncture without a license;

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

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

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

108 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free  
109 health care to an underserved population of Virginia who (i) does not regularly practice his profession in  
110 Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory,  
111 district or possession of the United States, (iii) volunteers to provide free health care to an underserved area  
112 of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that  
113 sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or  
114 certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days  
115 prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges,  
116 in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations,  
117 during the limited period that such free health care is made available through the volunteer, nonprofit  
118 organization on the dates and at the location filed with the Board. The Board may deny the right to practice in  
119 Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or

120 revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws  
121 or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria  
122 to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit  
123 organization verifies that the practitioner has a valid, unrestricted license in another state;

124 28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of  
125 sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in  
126 § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated  
127 Laboratories or other public health laboratories, designated by the State Health Commissioner, for the  
128 purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

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

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

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

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

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

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

163 35. Any doctor of medicine or osteopathy, physician assistant, respiratory therapist, occupational  
164 therapist, or advanced practice registered nurse who would otherwise be subject to licensure by the Board  
165 who holds an active, unrestricted license in another state or the District of Columbia and who is in good  
166 standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the  
167 practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such  
168 practice is for the purpose of providing continuity of care through the use of telemedicine services as defined  
169 in § 38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has  
170 previously established a practitioner-patient relationship and the practitioner has performed an in-person  
171 examination of the patient within the previous 12 months.

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

179 For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization  
180 that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of

181 Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group  
182 with whom such practitioner has previously established a practitioner-patient relationship and of whom such  
183 practitioner has performed an in-person examination within the previous 12 months, the patient shall be  
184 deemed to be a current patient of each practitioner in the multispecialty group with whom each such  
185 practitioner has established a practitioner-patient relationship.

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