

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 54.1-201, 54.1-516, 54.1-602, 54.1-902, 54.1-1110, 54.1-1134, 54.1-2208.4,*  
 3 *and 54.1-2314 of the Code of Virginia, relating to professions and occupations; powers and duties of*  
 4 *regulatory boards; disciplinary action; dismissal.*

5 [H 1305]

6 Approved

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

8 **1. That §§ 54.1-201, 54.1-516, 54.1-602, 54.1-902, 54.1-1110, 54.1-1134, 54.1-2208.4, and 54.1-2314 of the**  
 9 **Code of Virginia are amended and reenacted as follows:**

10 **§ 54.1-201. Powers and duties of regulatory boards.**

11 A. The powers and duties of regulatory boards shall be as follows:

12 1. To establish the qualifications of applicants for certification or licensure by any such *regulatory* board,  
 13 provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such  
 14 profession or occupation.

15 2. To examine, or cause to be examined, the qualifications of each applicant for certification or licensure  
 16 within its particular regulatory system, including when necessary the preparation, administration, and grading  
 17 of examinations.

18 3. To certify or license qualified applicants as practitioners of the particular profession or occupation  
 19 regulated by such *regulatory* board.

20 4. To levy and collect fees for certification or licensure and renewal that are sufficient to cover all  
 21 expenses for the administration and operation of the regulatory board and a proportionate share of the  
 22 expenses of the Department of Professional and Occupational Regulation and the Board for Professional and  
 23 Occupational Regulation.

24 5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)  
 25 necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners, and  
 26 to effectively administer the regulatory system administered by the regulatory board. The regulations shall  
 27 not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3  
 28 (§ 54.1-300 et seq.).

29 6. To ensure that inspections are conducted relating to the practice of each practitioner certified or  
 30 licensed by the regulatory board to ensure that the practitioner is conducting his practice in a competent  
 31 manner and within the lawful regulations promulgated by the *regulatory* board.

32 7. To place a regulant on probation or revoke, suspend, or fail to renew a certificate or license for just  
 33 causes as enumerated in regulations of the *regulatory* board. *A regulatory board may take a disciplinary case*  
 34 *against a licensee under advisement, defer a finding in such case, and dismiss such action upon terms and*  
 35 *conditions set by the Board for Professional and Occupational Regulation. Conditions of probation or*  
 36 *dismissal may include, but not be limited to the successful completion of remedial education or examination.*

37 8. To receive complaints concerning the conduct of any regulant and to take appropriate disciplinary  
 38 action if warranted.

39 9. To provide a regulant subject to a disciplinary action with a notice advising the regulant of his right to  
 40 be heard at an informal fact-finding conference pursuant to § 2.2-4019 of the Administrative Process Act  
 41 (§2.2-4000 et seq.). The notice shall state that if the regulant does not request an informal fact-finding  
 42 conference within 30 days of receipt of the notice, the *regulatory* board may issue a case decision as defined  
 43 in § 2.2-4001, with judicial review of the case decision in accordance with § 2.2-4026. If the regulant asserts  
 44 his right to be heard prior to the *regulatory* board issuing its case decision, the *regulatory* board shall remand  
 45 the case to an informal fact-finding conference. The notice required by this subdivision shall be sent in a  
 46 manner that allows for confirmation of delivery or, if agreed to by the parties, through electronic means,  
 47 provided that the *regulatory* board retains sufficient proof of the electronic delivery, which may be an  
 48 electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service  
 49 prepared by the sender confirming the electronic delivery.

50 10. To promulgate canons of ethics under which the professional activities of regulants shall be  
 51 conducted.

52 B. A regulant shall furnish, upon the request of a person to whom the regulant is providing or offering to  
 53 provide service, satisfactory proof that the regulant (i) is duly licensed, certified, or registered under this  
 54 subtitle and (ii) has obtained any required bond or insurance to engage in his profession or occupation.

55 C. As used in this section, "regulant" means any person, firm, corporation, association, partnership, joint  
 56 venture, or any other legal entity required by this subtitle to be licensed, certified, or registered.

57 **§ 54.1-516. Disciplinary actions.**

58 A. ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board may reprimand,*  
59 *fine, suspend or revoke (i) the license of a lead contractor, lead inspector, lead risk assessor, lead project*  
60 *designer, lead supervisor, lead worker, asbestos contractor, asbestos supervisor, asbestos inspector, asbestos*  
61 *analytical laboratory, asbestos management planner, asbestos project designer, asbestos project monitor,*  
62 *asbestos worker, or home inspector or (ii) the approval of an accredited asbestos training program, accredited*  
63 *lead training program, training manager or principal instructor, if the licensee or approved person or program:*

64 1. Fraudulently or deceptively obtains or attempts to obtain a license or approval;

65 2. Fails at any time to meet the qualifications for a license or approval or to comply with the requirements  
66 of this chapter or any regulation adopted by the Board; or

67 3. Fails to meet any applicable federal or state standard when performing an asbestos project or service or  
68 performing lead-based paint activities.

69 B. ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board may reprimand,*  
70 *fine, suspend or revoke the license of (i) any asbestos contractor who employs or permits an individual*  
71 *without an asbestos supervisor's or worker's license to work on an asbestos project or (ii) any lead contractor*  
72 *who employs or permits an individual without a lead supervisor's or lead worker's license to work on a lead*  
73 *abatement project.*

74 C. ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board may reprimand,*  
75 *fine, suspend or revoke the license of a home inspector.*

76 **§ 54.1-602. Auctioneers Board; membership, meetings and powers.**

77 A. The Auctioneers Board shall be composed of five members as follows: three shall be Virginia licensed  
78 auctioneers and two shall be citizen members. Board members shall serve four-year terms.

79 The Board shall meet at least once each year for the purpose of transacting business. Special meetings of  
80 the Board may be held at the discretion of the Director.

81 B. ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board shall have the*  
82 *following authority and responsibilities:*

83 1. Establish regulations to obtain and retain licensure of auctioneers.

84 2. Make all case decisions regarding eligibility for initial licensure and renewal thereof.

85 3. To fine, suspend, deny renewal or revoke for cause, as defined in regulation, any license.

86 4. To examine auctioneers for licensure.

87 **§ 54.1-902. Regulations; suspension or revocation of license; penalty for violation.**

88 A. ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board is authorized to*  
89 *promulgate regulations necessary for the proper government and regulation of pilots and to prescribe*  
90 *penalties for the violation of regulations in accordance with the provisions of the Administrative Process Act*  
91 *(§ 2.2-4000 et seq.). Regulations may include the right to suspend or revoke the branch of any pilot. Such*  
92 *suspension or revocation may be in addition to any other penalty imposed by law for the violation.*

93 Reasonable notice and an opportunity to be heard in accordance with the Administrative Process Act shall  
94 be given before the Board shall take any action to revoke or suspend the license of any licensee.

95 B. The Board may suspend a license of any person without a hearing, simultaneously with the institution  
96 of proceedings for a hearing, if it finds that there is substantial danger to the public health or safety which  
97 warrants such action. The Board may meet by telephone conference call when summarily suspending a  
98 license, if a good faith effort to assemble a quorum of the Board has failed and in the judgment of a majority  
99 of the members of the Board, the continued practice of the licensee constitutes a substantial danger to the  
100 public health or safety. Institution of proceeding for a hearing shall be provided simultaneously with the  
101 summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary  
102 suspension.

103 C. Before any penalty for violation of the regulations may be imposed, a printed copy of the regulations  
104 shall be furnished to each pilot.

105 **§ 54.1-1110. Grounds for denial or revocation of license or certificate.**

106 ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board shall have the power*  
107 *to require remedial education, suspend, revoke, or deny renewal of the license or certificate of any contractor*  
108 *who is found to be in violation of the statutes or regulations governing the practice of licensed or certified*  
109 *contractors in the Commonwealth.*

110 The Board may suspend, revoke, or deny renewal of an existing license or certificate, or refuse to issue a  
111 license or certificate, to any contractor who is shown to have a substantial identity of interest with a  
112 contractor whose license or certificate has been revoked or not renewed by the Board. A substantial identity  
113 of interest includes but is not limited to (i) a controlling financial interest by the individual or corporate  
114 principals of the contractor whose license or certificate has been revoked or nonrenewed, (ii) substantially  
115 identical principals or officers, or (iii) the same designated employee as the contractor whose license or  
116 certificate has been revoked or not renewed by the Board.

117 Additionally, the Board may suspend, revoke or deny renewal of an existing license or certificate, or  
118 refuse to issue a license or certificate to any contractor who violates the provisions of Chapter 5 (§ 60.2-500

119 et seq.) of Title 60.2 and Chapter 8 (§ 65.2-800 et seq.) of Title 65.2.

120 Any person whose license is suspended or revoked by the Board shall not be eligible for a license or  
121 certificate under any circumstances or under any name, except as provided by regulations of the Board  
122 pursuant to § 54.1-1102.

123 **§ 54.1-1134. Grounds for denial or revocation of certification or license; reports of building officials**  
124 **and others.**

125 ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board shall have the power*  
126 *to require remedial education and to suspend, revoke or deny renewal of the certification or license of any*  
127 *individual who is found to be in violation of the statutes or regulations governing the practice of licensed*  
128 *tradesmen, liquefied petroleum gas fitters or natural gas fitter providers or certified backflow prevention*  
129 *device workers in the Commonwealth.*

130 Any building official who finds that an individual is practicing as a tradesman, elevator mechanic,  
131 liquefied petroleum gas fitter or natural gas fitter provider without a license as required by this article shall  
132 file a report to such effect with the Board. Any water purveyor or building official who finds that an  
133 individual is practicing as a backflow prevention device worker without a certificate, if a certificate is  
134 required by the locality in which an individual is engaging in backflow prevention device worker activities,  
135 shall file a report to such effect with the Board.

136 Any building official who has reason to believe that (i) a tradesman, liquefied petroleum gas fitter or  
137 natural gas fitter provider is performing incompetently as demonstrated by an egregious or repeated violation  
138 of the Uniform Statewide Building Code (§ 36-97 et seq.) or (ii) a certified backflow prevention device  
139 worker is performing incompetently as demonstrated by an egregious or repeated violation of the standards  
140 adopted by the American Society of Sanitary Engineering referenced in the plumbing code adopted by the  
141 Virginia Uniform Statewide Building Code shall file a report to such effect with the Board. Any water  
142 purveyor who has reason to believe that a certified backflow prevention device worker is performing  
143 incompetently as demonstrated by an egregious or repeated violation of the standards adopted by the  
144 American Society of Sanitary Engineering referenced in the plumbing code adopted by the Virginia Uniform  
145 Statewide Building Code shall file a report to such effect with the Board and local building official.

146 **§ 54.1-2208.4. Professional ethics and conduct.**

147 A. The Board, in coordination with an ad hoc panel of licensed professional geologists convened by the  
148 Board and representing various geological interests in Virginia, shall have prepared and adopted a Code of  
149 Professional Ethics and Conduct that shall be published and made known in writing to every Virginia  
150 licensed professional geologist and applicant for licensure under this article. The Board may revise and  
151 amend this code as needed and shall forthwith notify each licensed professional geologist in writing of such  
152 revisions or amendments.

153 B. ~~The full~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board, by majority*  
154 *vote, shall have the power to suspend, revoke, or refuse to renew the license of any professional geologist*  
155 *who, after an appropriate formal hearing, is found to have been involved in:*

- 156 1. Any fraud or deceit in obtaining licensure;
- 157 2. Any violation of the Code of Professional Ethics and Conduct or other regulations of the Board;
- 158 3. Demonstrated gross negligence, incompetence, or misconduct in the practice of geology as a  
159 professional geologist; or
- 160 4. Any conviction of a felony which, in the opinion of the Board, would adversely affect the practice of  
161 geology.

162 C. The Board, by majority vote of the quorum, may reinstate a revoked or suspended license to any  
163 professional geologist who makes written application to the Board showing good cause for such action.

164 **§ 54.1-2314. Refusal, suspension or revocation of license or registration.**

165 ~~The~~ *In addition to the applicable provisions of §§ 54.1-201 and 54.1-202, the Board may refuse to license*  
166 *or register any applicant, suspend a license or registration for a stated period or indefinitely, revoke any*  
167 *license or registration, censure or reprimand any person licensed or registered by the Board or place such*  
168 *person on probation for such time as it may designate for any of the following causes related to the sale or*  
169 *offering to the public of cemetery vaults, grave liners, urns, memorials, markers or monuments:*

- 170 1. Conviction of any felony or any crime involving moral turpitude;
- 171 2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
- 172 3. Misrepresentation or fraud in the conduct of the cemetery company or its sales personnel, or in  
173 obtaining or renewing a license or registration;
- 174 4. False or misleading advertising;
- 175 5. Solicitation in violation of subsection B of § 54.1-2327;
- 176 6. Direct or indirect payment or offer of payment of a commission to others by the licensee, his sales  
177 representatives, agents, or employees for the purpose of securing business;
- 178 7. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed or  
179 registered activity;
- 180 8. Aiding or abetting an unlicensed person to engage in the business of a cemetery company;

- 181** 9. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of  
**182** a deceased, whose body has been interred or otherwise disposed of;
- 183** 10. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation  
**184** of dead human bodies;
- 185** 11. Failure to comply with subsection A of § 54.1-2327 and to keep on file an itemized statement of all  
**186** retail prices and fees charged related to the sale of property or services as required by Board regulations and  
**187** this chapter;
- 188** 12. Charging third-party handling fees, which shall not include installation fees; and
- 189** 13. Refusing to honor the transfer of preneed contract arrangements to another party. However the  
**190** licensee shall not be responsible for paying additional costs associated with any actual transfer.