Chapter 29 of Title 54.1 of the Code of Virginia

Medicine

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§ 54.1-2900. Definitions.

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

"Acupuncturist" means individuals approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Board" means the Board of Medicine.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Physician assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of x-rays to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory care practitioner a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory care practitioner.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope of diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the

appropriate exposure of radiographs or other procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment which emits ionizing radiation which is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

(Code 1950, § 54-273; 1950, p. 110; 1958, c. 161; 1960, c. 268; 1966, c. 657; 1970, c. 69; 1973, c. 529; 1975, cc. 508, 512; 1977, c. 127; 1980, c. 157; 1986, c. 439; 1987, cc. 522, 543; 1988, cc. 737, 765; 1991, c. 643; 1994, c. 803; 1995, c. 777; 1996, cc. 152, 158, 470, 937, 980; 1998, cc. 319, 557, 593; 1999, cc. 639, 682, 747, 779; 2000, cc. 688, 814; 2001, c. 533; 2004, c. 731; 2007, c. 861; 2008, cc. 64, 89; 2009, cc. 83, 507; 2010, cc. 715, 725; 2011, cc. 121, 187; 2012, cc. 3, 110, 168, 213, 399.)

§ 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 collaboration and consultation with a patient care team physician as part of a patient care team pursuant to § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of 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;

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

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

17. The performance of the duties of any commissioned or contract medical officer, or podiatrist in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States while such individual is so commissioned or serving;

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

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

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

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

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

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

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

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

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

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

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

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

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the

practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

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

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

B. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife may practice without the requirement for physician supervision while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

(Code 1950, §§ 54-273, 54-274, 54-276 through 54-276.6; 1950, pp. 98, 110; 1954, c. 556; 1958, c. 161; 1960, c. 268; 1962, cc. 127, 394; 164, c. 317; 1966, c. 657; 1970, c. 69; 1973, cc. 105, 514, 529; 1975, cc. 508, 512; 1976, c. 15; 1977, c. 127; 1980, c. 157; 1981, c. 300; 1982, c. 220; 1985, cc. 303, 347, 372; 1986, cc. 377, 439; 1987, cc. 522, 543; 1988, c. 765; 1992, cc. 412, 414; 1994, c. 787; 1995, cc. 509, 777; 1996, cc. 775, 779, 937, 980; 1998, cc. 630, 803, 854; 1999, cc. 570, 814; 2000, cc. 688, 814; 2001, cc. 235, 237, 533; 2002, c. 740; 2003, cc. 514, 519, 641; 2005, cc. 113, 926; 2006, c. 750; 2008, c. 674; 2010, c. 245; 2011, cc. 632, 811; 2012, c. 213.)

§ 54.1-2902. Unlawful to practice without license.

It shall be unlawful for any person to practice medicine, osteopathic medicine, chiropractic, podiatry, or as a physician's or podiatrist's assistant in the Commonwealth without a valid unrevoked license issued by the Board of Medicine.

(Code 1950, § 54-274; 1950, p. 98; 1958, c. 161; 1962, c. 127; 1966, c. 657; 1970, c. 69; 1973, cc. 105, 514, 529; 1975, c. 508; 1976, c. 15; 1980, c. 157; 1982, c. 220; 1985, cc. 303, 347; 1986, c. 377; 1988, c. 765; 1996, cc. 937, 980; 2000, c. 688.)

§ 54.1-2903. What constitutes practice.

Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease. No person regulated under this chapter shall use the title "Doctor" or the

abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses a clarifying title, initials, abbreviation or designation or language that identifies the type of practice for which he is licensed.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

(Code 1950, § 54-275; 1958, c. 161; 1966, c. 657; 1973, c. 529; 1975, c. 508; 1988, c. 765; 1991, c. 102; 1996, cc. 937, 980; 2000, c. 688.)

§ 54.1-2904. Biennial renewal of licenses; copies; fee; lapsed licenses; reinstatement; penalties.

A. Every license granted under the provisions of this chapter shall be renewed biennially as prescribed by the Board. The Board shall send notice for renewal of a license to every licensee. Failure to receive such notice shall not excuse any licensee from the requirements of renewal. The person receiving such notice shall furnish the information requested and submit the prescribed renewal fee to the Board. Copies of licenses may be obtained as provided in the Board's regulations.

B. Any licensee who allows his license to lapse by failing to renew the license or failing to meet professional activity requirements stipulated in the regulations may be reinstated by the Board upon submission of evidence satisfactory to the Board that he is prepared to resume practice in a competent manner and upon payment of the prescribed fee.

C. Any person practicing during the time his license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of this chapter.

(Code 1950, § 54-315.1; 1958, c. 161; 1962, c. 128; 1966, c. 657; 1968, c. 674; 1970, c. 69; 1975, c. 508; 1980, c. 157; 1982, c. 606; 1985, c. 303; 1988, c. 765; 1996, cc. 937, 980; 2000, c. 688; 2013, c. 144.)

§ 54.1-2905.

Repealed by Acts 2013, c. 144, cl. 2.

§§ 54.1-2906. , 54.1-2907.

Repealed by Acts 2004, c. 64.

§ 54.1-2908. Reports of disciplinary action against health professionals; immunity from liability; civil penalty.

A. The president of the Medical Society of Virginia, the Osteopathic Medical Association, the Virginia Chiropractors Association, Inc., and the Virginia Podiatric Medical Association shall report within 30 days to the Board of Medicine any disciplinary action taken by his organization against any member of his organization licensed under this chapter if such disciplinary action is a result of conduct involving intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, professional ethics, professional incompetence, moral turpitude, drug addiction or alcohol abuse.

B. The president of any association, society, academy or organization shall report within 30 days to the Board of Medicine any disciplinary action taken against any of its members licensed under this chapter if such disciplinary action is a result of conduct involving intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, professional ethics, professional incompetence, moral turpitude, drug addiction or alcohol abuse.

C. Any report required by this section shall be in writing directed to the Board of Medicine, shall give the name and address of the person who is the subject of the report and shall fully describe the circumstances surrounding the facts required to be reported. The report shall include the names and contact information of individuals with knowledge about the facts required to be reported and the names and contact information of all individuals from whom the association, society, academy, or organization sought information to substantiate the facts required to be reported. All relevant medical records maintained by the reporting entity shall be attached to the report if patient care or the health professional's health status is at issue. The reporting association, society, academy or organization shall also provide notice to the Board that it has submitted any required report to the National Practitioner Data Bank under the Health Care Quality Improvement Act, 42 U.S.C. § 11101 et seq.

The reporting association, society, academy or organization shall give the health professional who is the subject of the report an opportunity to review the report. The health professional may submit a separate report if he disagrees with the substance of the report.

D. No person or entity shall be obligated to report any matter to the Board if the person or entity has actual notice that the matter has already been reported to the Board.

E. Any person making a report required by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability resulting therefrom unless such person acted in bad faith or with malicious intent.

F. In the event that any organization enumerated in subsection A or any component thereof receives a complaint against one of its members, such organization may, in lieu of considering disciplinary action against such member, request that the Board investigate the matter pursuant to this chapter, in which event any person participating in the decision to make such a request or testifying in a judicial or administrative proceeding as a result of such request shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

G. Any person who fails to make a report to the Board as required by this section shall be subject to a civil penalty not to exceed $5,000. Any person assessed a civil penalty pursuant to this section shall not receive a license, registration or certification or renewal of such from any health regulatory board unless such penalty has been paid.

(1977, c. 639, § 54-317.4; 1978, c. 541; 1983, c. 40; 1986, c. 434; 1988, c. 765; 1996, cc. 937, 980; 2000, c. 688; 2003, cc. 753, 762.)

§ 54.1-2909. Further reporting requirements; civil penalty; disciplinary action.

A. The following matters shall be reported within 30 days of their occurrence to the Board:

1. Any disciplinary action taken against a person licensed under this chapter in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation;

2. Any malpractice judgment against a person licensed under this chapter;

3. Any settlement of a malpractice claim against a person licensed under this chapter; and

4. Any evidence that indicates a reasonable probability that a person licensed under this chapter is or may be professionally incompetent; has engaged in intentional or negligent conduct that causes or it likely to cause injury to a patient or patients; has engaged in unprofessional conduct; or may be mentally or physically unable to engage safely in the practice of his profession.

The reporting requirements set forth in this section shall be met if these matters are reported to the National Practitioner Data Bank under the Health Care Quality Improvement Act, 42 U.S.C. § 11101 et seq., and notice that such a report has been submitted is provided to the Board.

B. The following persons and entities are subject to the reporting requirements set forth in this section:

1. Any person licensed under this chapter who is the subject of a disciplinary action, settlement, judgment or evidence for which reporting is required pursuant to this section;

2. Any other person licensed under this chapter, except as provided in the protocol agreement entered into by the Medical Society of Virginia and the Board for the Operation of the Impaired Physicians Program;

3. The presidents of all professional societies in the Commonwealth, and their component societies whose members are regulated by the Board, except as provided for in the protocol agreement entered into by the Medical Society of Virginia and the Board for the Operation of the Impaired Physicians Program;

4. All health care institutions licensed by the Commonwealth;

5. The malpractice insurance carrier of any person who is the subject of a judgment or settlement; and

6. Any health maintenance organization licensed by the Commonwealth.

C. No person or entity shall be obligated to report any matter to the Board if the person or entity has actual notice that the matter has already been reported to the Board.

D. Any report required by this section shall be in writing directed to the Board, shall give the name and address of the person who is the subject of the report and shall describe the circumstances surrounding the facts required to be reported. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17.

E. Any person making a report required by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability or criminal prosecution resulting therefrom unless such person acted in bad faith or with malicious intent.

F. The clerk of any circuit court or any district court in the Commonwealth shall report to the Board the conviction of any person known by such clerk to be licensed under this chapter of any (i) misdemeanor involving a controlled substance, marijuana or substance abuse or involving an act of moral turpitude or (ii) felony.

G. Any person who fails to make a report to the Board as required by this section shall be subject to a civil penalty not to exceed $5,000. The Director shall report the assessment of such civil penalty to the Commissioner of the Department of Health or the Commissioner of Insurance at the State Corporation Commission. Any person assessed a civil penalty pursuant to this section shall not receive a license, registration or certification or renewal of such unless such penalty has been paid.

H. Disciplinary action against any person licensed, registered or certified under this chapter shall be based upon the underlying conduct of the person and not upon the report of a settlement or judgment submitted under this section.

(1986, c. 434, § 54-317.4:1; 1988, c. 765; 1998, c. 744; 2003, cc. 753, 762.)

§ 54.1-2910.

Repealed by Acts 1997, c. 698.

§ 54.1-2910.01. Practitioner information provided to patients.

Upon request by a patient, doctors of medicine, osteopathy, and podiatry shall inform the patient about the following:

1. Procedures to access information on the doctor compiled by the Board of Medicine pursuant to § 54.1-2910.1; and

2. If the patient is not covered by a health insurance plan that the doctor accepts or a managed care health insurance plan in which the doctor participates, the patient may be subject to the doctor's full charge which may be greater than the health plan's allowable charge.

(2005, c. 468.)

§ 54.1-2910.1. Certain data required.

A. The Board of Medicine shall require all doctors of medicine, osteopathy and podiatry to report and shall make available the following information:

1. The names of the schools of medicine, osteopathy, or podiatry and the years of graduation;

2. Any graduate medical, osteopathic, or podiatric education at any institution approved by the Accreditation Council for Graduation Medical Education, the American Osteopathic Association or the Council on Podiatric Medical Education;

3. Any specialty board certification as approved by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the American Board of Multiple Specialties in Podiatry, or the Council on Podiatric Medical Education of the American Podiatric Medical Association;

4. The number of years in active, clinical practice as specified by regulations of the Board;

5. Any hospital affiliations;

6. Any appointments, within the most recent 10-year period, of the doctor to the faculty of a school of medicine, osteopathy or podiatry and any publications in peer-reviewed literature within the most recent five-year period and as specified by regulations of the Board;

7. The location and telephone number of any primary and secondary practice settings and the approximate percentage of the doctor's time spent practicing in each setting. For the sole purpose of expedited dissemination of information about a public health emergency, the doctor shall also provide to the Board any e-mail address or facsimile number; however, such e-mail address or facsimile number shall not be published on the profile database and shall not be released or made available for any other purpose;

8. The access to any translating service provided to the primary and secondary practice settings of the doctor;

9. The status of the doctor's participation in the Virginia Medicaid Program;

10. Any final disciplinary or other action required to be reported to the Board by health care institutions, other practitioners, insurance companies, health maintenance organizations, and professional organizations pursuant to §§ 54.1-2400.6, 54.1-2908, and 54.1-2909 that results in a suspension or revocation of privileges or the termination of employment or a final order of the Board relating to disciplinary action;

11. Conviction of any felony; and

12. Other information related to the competency of doctors of medicine, osteopathy, and podiatry, as specified in the regulations of the Board.

B. In addition, the Board shall provide for voluntary reporting of insurance plans accepted and managed care plans in which the doctor participates.

C. The Board shall promulgate regulations to implement the provisions of this section, including, but not limited to, the release, upon request from a consumer, of such information relating to a specific doctor. The Board's regulations shall provide for reports to include all medical malpractice judgments and medical malpractice settlements of more than $10,000 within the most recent 10-year period in categories indicating the level of significance of each award or settlement; however, the specific numeric values of reported paid claims shall not be released in any individually identifiable manner under any circumstances. Notwithstanding this subsection, a licensee shall report a medical malpractice judgment or medical malpractice settlement of less than $10,000 if any other medical malpractice judgment or medical malpractice settlement has been paid by or for the licensee within the preceding 12 months.

D. This section shall not apply to any person licensed pursuant to §§ 54.1-2928.1, 54.1-2933.1, 54.1-2936, and 54.1-2937 or to any person holding an inactive license to practice medicine, osteopathy, or podiatry.

(1998, c. 744; 1999, c. 573; 2000, c. 199; 2001, c. 199; 2001, Sp. Sess. I, c. 5; 2002, c. 38; 2004, cc. 64, 703; 2007, c. 861; 2008, c. 479.)

§ 54.1-2910.2. Posting of disciplinary information.

The Board shall post on any department website available to the public all final orders, together with any associated notices, which imposed disciplinary action against licensees of the Board. The Board shall not post notices that have not been adjudicated. Notices and orders entered prior to July 1, 2007, that did not result in disciplinary action by the Board may be removed upon written request of the licensee. Nothing in this section shall be construed to prohibit the inspection and copying of records of disciplinary actions to the extent permitted under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and § 54.1-2400.2.

(2007, c. 861.)

§ 54.1-2910.3. No requirement to participate in third-party reimbursement programs.

No provider licensed pursuant to this chapter shall be required to participate in any public or private third-party reimbursement program as a condition of licensure.

(2011, c. 490.)

§ 54.1-2911. Board; membership; terms of office; change of residence; executive director; etc.

The Board of Medicine shall consist of one medical physician from each congressional district, one osteopathic physician, one podiatrist, one chiropractor, and four citizen members. No two citizen members shall reside in the same congressional district. Citizen members shall have all voting and participation rights of other members. The term of office of the members of the Board shall be four years. If any medical physician member of the Board ceases to reside in the district from which he was appointed, except by reason of redistricting, his office shall be deemed vacant.

The officers of the Board shall be a president, vice-president and a secretary, who shall also act as treasurer, who shall be members of and selected by the Board.

Regular meetings of the Board shall be held at such times and places as prescribed by the Board. Special meetings may be held upon the call of the president and any 11 members. Twelve members of the Board shall constitute a quorum.

The Board may establish an executive committee composed of the president, vice-president, the secretary and five other members of the Board appointed by the president. The executive committee shall include at least two citizen members. In the absence of the Board, the executive committee shall have full powers to take any action and conduct any business authorized by this chapter. Five members of the executive committee shall constitute a quorum. Any actions or business conducted by the executive committee shall be acted upon by the full Board as soon as practicable.

There shall be an executive director for the Board of Medicine who shall be licensed or eligible for licensure in the Commonwealth as a physician.

(Code 1950, §§ 54-282, 54-283, 54-287, 54-289, 54-290; 1950, p. 111; 1966, cc. 166, 657; 1970, c. 69; 1973, c. 401; 1973, c. 529, § 54-290.1; 1975, c. 508; 1986, c. 434, § 54-290.2; 1986, c. 464; 1988, cc. 42, 765; 2001, cc. 186, 198; 2003, cc. 753, 762.)

§ 54.1-2912. Nominations.

Nominations may be made for the medical physicians from a list of three names submitted to the Governor by the Medical Society of Virginia and the osteopathic physician, podiatrist and chiropractor members, respectively, from a list of at least three names submitted by June 1 of each year by their respective state societies. In no case shall the Governor be bound to make any appointment from among the nominees of the respective societies. The Governor may notify the society, which may make nominations, of any professional vacancy other than by expiration

among the members of the Board representing the particular profession and like nominations may be made for the filling of the vacancy.

(Code 1950, § 54-284; 1950, p. 111; 1966, c. 657; 1970, c. 69; 1975, c. 508; 1986, c. 434; 1988, c. 765; 2005, c. 163.)

§ 54.1-2912.1. Continued competency and office-based anesthesia requirements.

A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.

B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.

D. Pursuant to § 54.1-2400 and its authority to establish the qualifications for registration, certification or licensure that are necessary to ensure competence and integrity to engage in the regulated practice, the Board of Medicine shall promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices.

(1997, c. 227; 2002, c. 324.)

§ 54.1-2912.2. Board may endorse certain document.

In the furtherance of its responsibility to ensure continued practitioner competency, the Board of Medicine may endorse the Medical Society of Virginia's Guidelines for the Use of Opioids in the Management of Chronic, Non-Cancer Pain, developed and adopted in 1997.

For the purpose of this section, "endorse" means to publicize and distribute such guidelines as providing an appropriate standard of care; however, the Board's endorsement shall not be construed to mean that the guidelines must be followed or are regulations or are in any way intended to be enforceable law.

(1998, c. 496.)

§ 54.1-2912.3. Competency assessments of certain practitioners.

The Board shall require an assessment of the competency of any person holding an active license under this chapter on whose behalf three separate medical malpractice judgments or medical malpractice settlements of more than $75,000 each are paid within the most recent 10-year period. The assessment shall be accomplished in 18 months or less by a program acceptable to

the Board. The licensee shall bear all costs of the assessment. The results of the assessment shall be reviewed by the Board and the Board shall determine a plan of corrective action or appropriate resolution pursuant to the assessment. The assessment, related documents and the processes shall be governed by the confidentiality provisions of § 54.1-2400.2 and shall not be admissible into evidence in any medical malpractice action involving the licensee. The Board shall annually post the number of competency assessments undertaken on its website.

(2005, cc. 649, 692; 2007, c. 861; 2011, c. 808.)

§ 54.1-2913.

Repealed by Acts 2013, c. 144, cl. 2.

§ 54.1-2913.1. Acceptance of other examinations.

The Board shall promulgate regulations governing examinations for each branch of the healing arts. In lieu of any or all parts of the examinations prescribed by the Board for a license to practice medicine, osteopathy, podiatry or chiropractic, the Board may:

1. Accept a certificate issued by either the National Board for the appropriate branch of the healing arts or a state board prior to 1970 attesting the satisfactory completion of an examination given by that board if, in the opinion of the Board, the substituted examination material is substantially equivalent to the material for which it is substituted, and the passing grades are in each instance the equivalent of the grades required to be made on the corresponding examinations administered by the Board.

2. Accept a certificate issued by a state board during or after 1970 attesting to the applicant's satisfactory completion of all requirements to practice medicine, osteopathy, podiatry or chiropractic in that state, if the applicant has a current and unrestricted license to practice in another state and a current specialty certificate acceptable to the Board.

(1989, c. 45; 2013, c. 144.)

§ 54.1-2914. Sale of controlled substances and medical devices or appliances; requirements for vision care services.

A. A practitioner of the healing arts shall not engage in selling controlled substances unless he is licensed to do so by the Board of Pharmacy. However, this prohibition shall not apply to a doctor of medicine, osteopathy or podiatry who administers controlled substances to his patients or provides controlled substances to his patient in a bona fide medical emergency or when pharmaceutical services are not available. Practitioners who sell or dispense controlled substances shall be subject to inspection by the Department of Health Professions to ensure compliance with Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of this title and the Board of Pharmacy's regulations. This subsection shall not apply to physicians acting on behalf of the Virginia Department of Health or local health departments.

B. A practitioner of the healing arts who may lawfully sell medical appliances or devices shall not sell such appliances or devices to persons who are not his own patients and shall not sell such articles to his own patients either for his own convenience or for the purpose of supplementing his income. This subsection shall not apply to physicians acting on behalf of the Virginia Department of Health or local health departments.

C. A practitioner of the healing arts may, from within the practitioner's office, engage in selling or promoting the sale of eyeglasses and may dispense contact lenses. Only those practitioners of the healing arts who engage in the examination of eyes and prescribing of eyeglasses may engage in the sale or promotion of eyeglasses. Practitioners shall not employ any unlicensed person to fill prescriptions for eyeglasses within the practitioner's office except as provided in subdivision A 6 of § 54.1-2901. A practitioner may also own, in whole or in part, an optical dispensary located adjacent to or at a distance from his office.

D. Any practitioner of the healing arts engaging in the examination of eyes and prescribing of eyeglasses shall give the patient a copy of any prescription for eyeglasses and inform the patient of his right to have the prescription filled at the establishment of his choice. No practitioner who owns, in whole or in part, an establishment dispensing eyeglasses shall make any statement or take any action, directly or indirectly, that infringes on the patient's right to have a prescription filled at an establishment other than the one in which the practitioner has an ownership interest.

Disclosure of ownership interest by a practitioner as required by § 54.1-2964 or participation by the practitioner in contractual arrangements with third-party payors or purchasers of vision care services shall not constitute a violation of this subsection.

(Code 1950, § 54-317; 1954, c. 627; 1958, c. 161; 1966, cc. 166, 657; 1968, c. 582; 1970, c. 69; 1973, c. 529; 1975, c. 508; 1978, c. 622; 1979, c. 727; 1980, c. 157; 1985, c. 96; 1986, c. 86; 1988, cc. 765, 904; 1989, c. 510; 1994, c. 70; 1998, c. 580; 2001, cc. 268, 858; 2005, c. 163.)

§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.

A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person; place any person on probation for such time as it may designate; impose a monetary penalty or terms as it may designate on any person; suspend any license for a stated period of time or indefinitely; or revoke any license for any of the following acts of unprofessional conduct:

1. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of any branch of the healing arts;

2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;

3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients;

4. Mental or physical incapacity or incompetence to practice his profession with safety to his patients and the public;

5. Restriction of a license to practice a branch of the healing arts in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal government;

6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in procuring or performing a criminal abortion;

7. Engaging in the practice of any of the healing arts under a false or assumed name, or impersonating another practitioner of a like, similar, or different name;

8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with respect to the sale, use, or disposition of such drug;

9. Violating provisions of this chapter on division of fees or practicing any branch of the healing arts in violation of the provisions of this chapter;

10. Knowingly and willfully committing an act that is a felony under the laws of the Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;

11. Aiding or abetting, having professional connection with, or lending his name to any person known to him to be practicing illegally any of the healing arts;

12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the healing arts;

13. Conducting his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;

14. Inability to practice with reasonable skill or safety because of illness or substance abuse;

15. Publishing in any manner an advertisement relating to his professional practice that contains a claim of superiority or violates Board regulations governing advertising;

16. Performing any act likely to deceive, defraud, or harm the public;

17. Violating any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing, or administration of drugs;

18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;

19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and patient relationship or otherwise engaging at any time during the course of the practitioner and patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;

20. Conviction in any state, territory, or country of any felony or of any crime involving moral turpitude; or

21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect and the person has not been declared restored to competence or capacity.

B. The commission or conviction of an offense in another state, territory, or country, which if committed in Virginia would be a felony, shall be treated as a felony conviction or commission under this section regardless of its designation in the other state, territory, or country.

C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended, and has not had his certificate or license to so practice reinstated, in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

(Code 1950, §§ 54-316, 54-317; 1954, c. 627; 1958, cc. 161, 461; 1966, cc. 166, 657; 1968, c. 582; 1970, c. 69; 1973, c. 529; 1975, c. 508; 1978, c. 622; 1979, c. 727; 1980, c. 157; 1985, c. 96; 1986, cc. 86, 434; 1988, c. 765; 1993, c. 991; 1997, c. **801**; 2003, cc. **753**, **762**; 2004, c. **64**; 2005, c. **163**; 2013, c. **144**.)

§ 54.1-2916.

Repealed by Acts 2005, c. 163, cl. 2.

§ 54.1-2917.

Repealed by Acts 2013, c. 144, cl. 2.

§ 54.1-2918. Suspension or revocation for violation of facility licensing laws.

Whenever the Board of Health has suspended or revoked any license granted under the provisions of Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 and such suspension or revocation resulted from a violation of any provision of this chapter, or because of illegal practice, or conduct or practices detrimental to the welfare of any patient or resident in such hospital, a report of such action shall be made by the Board of Health to the Board of Medicine.

If it appears from the report, or from other evidence produced before the Board of Medicine, that the legally responsible head of such hospital is a practitioner of any branch of the healing arts, the Board may suspend or revoke the certificate or license of such person, or prosecute such person if unlicensed. The Board may suspend or revoke the certificate or license of or prosecute for unlicensed practice any person subject to this chapter who is practicing in or employed by

such hospital if such practitioner or employee is guilty of, responsible for, or implicated in illegal practices for which the hospital license has been suspended or revoked.

(Code 1950, § 54-321.1; 1975, c. 508; 1979, c. 720; 1988, c. 765.)

§ 54.1-2919.

Repealed by Acts 2004, c. 64.

§ 54.1-2920. Notice and opportunity to be heard required before suspension or revocation of license; allegations to be in writing; practice pending appeal; notice to patients.

Except as provided in § 54.1-2408.1, the Board shall take no action to revoke or suspend the license of any of its licensees except after reasonable notice and an opportunity to be heard in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such action may be in addition to any penalty imposed by law for the violation. For the purposes of this section, reasonable notice means written notice mailed at least thirty days prior to the scheduled hearing.

Any practitioner whose license is suspended or revoked by the Board shall not engage in the practice of any of the healing arts in the Commonwealth pending his appeal.

Whenever any license suspension or revocation becomes final, the practitioner shall forthwith give notice of that action, by certified mail, to all patients to whom he is currently providing services. Such practitioner shall cooperate with other practitioners to ensure continuation of treatment in conformity with the wishes of the patient. Such practitioner shall also notify any hospitals or other facilities where he is currently granted privileges, and any health insurance companies, health insurance administrators or health maintenance organizations currently reimbursing him for any of the healing arts.

(1973, c. 529, § 54-318.3; 1984, c. 81; 1985, c. 403; 1986, c. 434; 1988, c. 765; 1996, c. 530; 1997, c. 556.)

§ 54.1-2921.

Repealed by Acts 2003, cc. 753 and 762.

§§ 54.1-2922. , 54.1-2923.

Repealed by Acts 2004, cc. 40 and 68.

§ 54.1-2923.1. Programs for impaired practitioners.

A. The Board may implement an impaired practitioners program for persons regulated under this chapter. For this purpose, the Board may enter into contracts with a nonprofit corporation or professional organization which may include, but need not be limited to, the following components:

1. A requirement that the contractor enter into contracts with providers of treatment;

2. Evaluation of reports of suspected impairment;

3. Intervention in cases of verified impairment;

4. Referrals of impaired practitioners to treatment programs;

5. Monitoring of the treatment and rehabilitation of impaired practitioners, including any practitioners ordered to enter the program by the Board;

6. Post-treatment monitoring and support of rehabilitated impaired practitioners;

7. Performance of such other activities as may be agreed upon by the Board; and

8. Provision of prevention and education services.

B. Any contract executed pursuant to subsection A shall be financed by a surcharge on each license or certificate issued under this chapter. Such funds shall be used solely for the implementation of the impaired practitioners program.

(1997, c. 469.)

§ 54.1-2924.

Repealed by Acts 2013, c. 144, cl. 2.

§ 54.1-2924.1.

Expired.

§ 54.1-2925. Use of experts in disciplinary proceedings.

In any disciplinary proceeding conducted pursuant to this chapter, the executive director may contract with an expert or a panel of experts in the various specialties to provide assistance in investigating and evaluating practitioners who may be subject to punitive action. The executive director may select experts for this purpose from lists of specialists to be provided and regularly updated by the appropriate professional societies. Any contract between the executive director and any consulting expert shall provide that the consulting expert shall: (i) be available to work with an investigator from the beginning of the investigation; (ii) receive appropriate compensation for his services; (iii) review and evaluate a completed investigation report in accordance with guidelines established by the Board and the Office of the Attorney General and return it to the Board for action within a specified period of time; and (iv) be available to testify for the Board in any administrative or court proceeding arising from the investigations in which he has participated.

Any expert assisting in any investigation voluntarily or under the contract arrangements described in this section shall be immune from any civil liability or criminal prosecution resulting therefrom unless he acted in bad faith or with malicious intent.

(1986, c. 434, § 54-318.4; 1988, c. 765; 1996, c. 519.)

§ 54.1-2926. Powers of Board with respect to practitioners licensed to practice pharmacy.

The Board of Medicine shall have, with respect to practitioners of medicine, homeopathy, osteopathy, or podiatry, the same powers conferred upon the Board of Pharmacy with respect to pharmacists, to revoke or suspend the license to dispense drugs issued under § 54.1-3304 or § 54.1-3304.1 or to prescribe the medicines to be possessed or dispensed by such practitioner. The Board of Medicine shall promptly report any such action taken to the Board of Pharmacy, and the revoked license shall not be reissued nor shall the person be licensed anew, except upon recommendation of the Board of Medicine.

(1972, c. 798, § 54-318.2; 1978, c. 465; 1988, c. 765; 1996, cc. 468, 496.)

§ 54.1-2927. Applicants from other states without reciprocity; temporary licenses or certificates for certain practitioners of the healing arts.

A. The Board, in its discretion, may issue certificates or licenses to applicants upon endorsement by boards or other appropriate authorities of other states or territories or the District of Columbia with which reciprocal relations have not been established if the credentials of such applicants are satisfactory and the examinations and passing grades required by such other boards are fully equal to those required by the Virginia Board.

The Board may issue certificates or licenses to applicants holding certificates from the national boards of their respective branches of the healing arts if their credentials, schools of graduation and national board examinations and results are acceptable to the Board. The Board shall promulgate regulations in order to carry out the provisions of this section.

B. The Board may issue a license or certificate valid for a period not to exceed three months to a practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in the state, District of Columbia, or Canada where the practitioner resides when the practitioner is in Virginia temporarily to practice the healing arts (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) in continuing education programs, or (iii) by rendering at any site any health care services within the limits of his license or certificate, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106. Approval of the credentials of such practitioners and the form of such licenses or certificates shall be governed by regulations promulgated by the Board. A fee not to exceed twenty-five dollars may be charged by the Board for the issuance of a license or certificate authorized by this subsection.

(Code 1950, §§ 54-276.5, 54-310; 1954, c. 626; 1958, c. 161; 1960, cc. 333, 334; 1970, c. 69; 1972, c. 15; 1973, c. 529; 1975, c. 508; 1981, c. 300; 1985, c. 303; 1988, c. 765; 1992, c. 414; 1993, c. 784.)

§ 54.1-2928.

Repealed by Acts 2013, c. 144, cl. 2.

§ 54.1-2928.1. Restricted volunteer license.

A. The Board may issue a restricted volunteer license to a practitioner of the healing arts who:

1. Held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive;

2. Is practicing within the limits of his license in accordance with provisions of § 54.1-106; and

3. Attests to knowledge of the laws and regulations governing his branch of the healing arts in Virginia.

B. A person holding a restricted volunteer license under this section shall not be required to complete continuing education for the first renewal of such a license. Subsequent renewals will require continuing education as specified by Board regulation.

C. If a practitioner with a restricted volunteer license issued under this section has not held an active, unrestricted license and been engaged in active practice within the past four years, he shall only practice his profession if a doctor of medicine or osteopathic medicine with an active, unrestricted Virginia license reviews the quality of care rendered by the practitioner with the restricted volunteer license at least every 90 days.

D. Such license may be renewed every two years in accordance with regulations promulgated by the Board.

E. A practitioner holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter, the regulations promulgated under this chapter, and the disciplinary regulations which apply to all such practitioners in Virginia.

F. The application fee and the biennial renewal fee for restricted volunteer license under this section shall be no more than one-half the renewal fee for an inactive license in the same branch of the healing arts.

(2006, c. 881.)

§ 54.1-2929. Licenses required.

No person shall practice or hold himself out as qualified to practice medicine, osteopathy, chiropractic, or podiatry without obtaining a license from the Board of Medicine as provided in this chapter.

(Code 1950, § 54-281; 1966, c. 657, § 54-281.3; 1970, c. 69; 1988, c. 765; 1996, cc. 937, 980.)

§ 54.1-2930. Requirements for admission to examination.

The Board may issue a license to practice medicine, osteopathy, chiropractic, and podiatric medicine to any candidate who has submitted satisfactory evidence verified by affidavits that he:

1. Is 18 years of age or more;

2. Is of good moral character;

3. Has successfully completed all or such part as may be prescribed by the Board, of an educational course of study of that branch of the healing arts in which he desires a license to practice, which course of study and the educational institution providing that course of study are acceptable to the Board; and

4. Has completed one year of satisfactory postgraduate training in a hospital approved by an accrediting agency recognized by the Board for internships or residency training. At the discretion of the Board, the postgraduate training may be waived if an applicant for licensure in podiatry has been in active practice for four continuous years while serving in the military and is a diplomate of the American Board of Podiatric Surgery. Applicants for licensure in chiropractic need not fulfill this requirement.

In determining whether such course of study and institution are acceptable to it, the Board may consider the reputation of the institution and whether it is approved or accredited by regional or national educational or professional associations including, but not limited to, such organizations as the Accreditation Council for Graduate Medical Education, Liaison Committee on Medical Education, Council on Postgraduate Training of the American Osteopathic Association, Council on Osteopathic College Accreditation, College of Family Physicians of Canada, Committee for the Accreditation of Canadian Medical Schools, Education Commission on Foreign Medical Graduates, Royal College of Physicians and Surgeons of Canada, or their appropriate subsidiary agencies; by any appropriate agency of the United States government; or by any other organization approved by the Board. Supervised clinical training that is received in the United States as part of the curriculum of an international medical school shall be obtained in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the relevant clinical training. The Board may also consider any other factors that reflect whether that institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.

(Code 1950, § 54-305; 1952, c. 211; 1954, c. 626; 1972, c. 824; 1975, c. 508; 1982, c. 605; 1985, c. 605; 1988, cc. 89, 132, 765; 2013, c. 144.)

§ 54.1-2931. Examinations; passing grade.

A. The examinations of candidates for licensure to practice medicine and osteopathy shall be those of the National Board of Medical Examiners, the Federation of State Medical Boards, the National Board of Osteopathic Medical Examiners, or such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.

B. The examination of candidates for licensure to practice chiropractic shall include the National Board of Chiropractic Examiners Examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.

C. The examination of candidates for licensure to practice podiatry shall be the National Board of Podiatric Medical Examiners examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.

(Code 1950, § 54-297; 1958, c. 161; 1966, c. 657; 1970, c. 69; 1973, c. 529; 1978, c. 466; 1982, c. 605; 1985, c. 291; 1988, c. 765; 1990, c. 818; 2013, c. 144.)

§ 54.1-2932. Issuance of licenses to practice.

Upon completion of an application satisfactory to the Board, applicants shall be granted licenses to practice medicine, osteopathy, chiropractic, or podiatry and each license shall show plainly on its face the school or branch of the healing arts in which the holder thereof is permitted to practice. All licenses shall be attested by the signature of the president and secretary of the Board, respectively.

(Code 1950, § 54-309; 1958, cc. 161, 461; 1968, c. 766; 1970, c. 69; 1980, c. 157; 1985, c. 96; 1988, c. 765; 2013, c. 144.)

§ 54.1-2933. Licensure of persons who studied in foreign medical schools.

The Board may license an individual as a physician in this Commonwealth who has studied in an international medical school if the international medical school is acceptable to the Board and the individual has (i) qualified for and satisfactorily completed an appropriate supervised clinical training program as established by the American Medical Association; (ii) completed the postgraduate hospital training required by all applicants for licensure as defined in this chapter; and (iii) presented a document granted by the international medical school certifying that all of the formal requirements of the school for a degree, except postgraduate internship and social services, have been met.

(1984, c. 727, § 54-306.1:1; 1988, c. 765; 2013, c. 144.)

§ 54.1-2933.1. Temporary licensure of certain foreign graduates to obtain training.

The Board may issue, to a physician licensed in a foreign country, a nonrenewable license valid for a period not to exceed two years to practice medicine while such physician is attending advanced training in an institute for postgraduate health science operated collaboratively by a health care system having hospitals and health care facilities with residency and training program(s) approved by an accrediting agency recognized by the Board and a public institution of higher education. This temporary license shall only authorize the holder to practice medicine in the hospitals and outpatient clinics of the collaborating health care system while he is receiving training in the institute for postgraduate health science. The Board may promulgate regulations for such license.

(1995, c. 230; 2000, c. 788.)

§ 54.1-2934. Evidence of right to practice required of certain foreign graduates.

Every candidate who is a graduate of a school of a country other than the United States and Canada must, in addition to meeting the other requirements of this article, exhibit to the Board a diploma, license or certificate conferring the full right to practice in that country, or satisfactory evidence showing that the candidate has completed the course of study and passed examinations equivalent to those required for a diploma or license conferring such full right to practice.

(1954, c. 626, § 54-306.2; 1988, c. 765.)

§ 54.1-2935. Supplemental training or study required of certain graduates.

In the event that an applicant has completed an educational course of study in an institution that is not approved by an accrediting agency recognized by the Board, the applicant shall not be licensed until he has completed two years of satisfactory postgraduate training in a hospital approved by an accrediting agency recognized by the Board for internship or residency training. The Board may consider other postgraduate training as a substitute for the required postgraduate training if it finds that such training is substantially equivalent to that required by this section.

(1954, c. 626, § 54-306.3; 1958, c. 461; 1973, c. 529; 1982, c. 605; 1988, cc. 132, 765; 2003, c. 996; 2013, c. 144.)

§ 54.1-2936. Limited licenses to certain graduates of foreign medical schools.

A. After receiving a recommendation from the dean of an accredited medical school which was reached after consultation with the chairmen of the departments in the school or college and having become satisfied that the applicant is a person of professorial rank whose knowledge and special training will benefit the medical school or educational programs sponsored by the medical school in affiliated hospitals, the Board may issue a limited license to practice medicine in the hospitals and outpatient clinics of the school or college or in a hospital formally affiliated with the medical school for purposes of undergraduate or postgraduate medical education to a graduate of a foreign medical school as long as he serves as a full-time or adjunct faculty member. This limited license shall be valid for a period of not more than one year, but may be

renewed annually by the Board upon recommendation of the dean of the medical school and continued service as a full-time or adjunct faculty member.

B. After receiving a recommendation from the dean of an accredited medical school which was reached after consultation with the chairmen of the departments in the school or college and having become satisfied that the applicant is a person whose attendance will benefit the medical school, the Board may issue a limited license to practice medicine as a fellow if such fellowship is ranked between the residency level and that of associate professor. This limited license shall only authorize the holder to practice medicine in the hospitals and outpatient clinics of the school while he is a full-time fellow. The license shall be valid for a period of not more than one year, but may be renewed upon recommendation of the dean of the medical school and continuation of the fellowship. A limited license to a foreign graduate engaged in a fellowship shall not be renewed more than twice.

(1964, c. 285, § 54-311.1; 1970, c. 69; 1975, c. 508; 1977, c. 586, § 54-311.2; 1988, c. 765; 2003, c. 473.)

§ 54.1-2937. Temporary licenses to interns and residents in hospitals and other organizations.

Upon recommendation by the chief of an approved internship or residency program as defined in this chapter, the Board may issue a temporary annual license to practice medicine, osteopathic medicine, podiatry or chiropractic to interns and residents in such programs. No such license shall be issued to an intern or resident who has not completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice. Such license shall expire upon the holder's withdrawal or termination from the internship or residency program. The Board may prescribe such regulations not in conflict with existing law and require such reports from hospitals or other organizations operating an approved graduate medical education program in the Commonwealth as may be necessary to carry out the provisions of this section.

(1986, c. 307, § 54-311.3; 1987, c. 44; 1988, c. 765.)

§ 54.1-2938.

Repealed by Acts 1991, c. 102.

§ 54.1-2939. Surgery by podiatrists on patients under general anesthesia limited.

Podiatrists shall not perform surgery on patients under a general anesthetic except in a hospital or an ambulatory surgery center accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the Social Security Act (42 U.S.C. § 1395bb).

(1977, c. 127, § 54-275.2; 1988, c. 765; 1999, c. 651; 2013, c. 144.)

§ 54.1-2940.

Repealed by Acts 2001, cc. 186 and 198.

§ 54.1-2941. Contracts of practitioners with approved colleges and certain state agencies not prohibited.

This chapter shall not be construed to prohibit, forbid or prevent (i) any approved school of medicine, osteopathy, podiatry or chiropractic from contracting with any licensed practitioner to teach or participate in a preceptorship program in such college on such terms of compensation as may be mutually satisfactory, which contract may prescribe the extent, if any, to which the practitioner may engage in private practice, or (ii) any institution, hospital, treatment center, sanatorium or other similar agency under the management and control of an agency of the Commonwealth from employing or contracting with any licensed practitioner to furnish professional services in the work of the agency, or to persons entitled to receive such care from the agency.

(1958, c. 275, § 54-275.1; 1984, c. 710; 1988, c. 765.)

§§ 54.1-2942. through 54.1-2948.

Repealed by Acts 2000, c. 688, cl. 2.

§ 54.1-2949. License required.

It shall be unlawful for a person to practice or to hold himself out as practicing as a physician assistant unless he holds a license as such issued by the Board.

(1988, c. 765; 2013, c. 144.

§ 54.1-2950. Requisite training and educational achievements of assistants.

The Board shall establish a testing program to determine the training and educational achievements of the assistant or the Board may accept other evidence, such as experience or completion of an approved training program, in lieu of testing and shall establish this as a prerequisite for approval of the licensee's application.

Pending the outcome of the next examination administered by the National Commission for Certification of Physician Assistants, the Board may grant provisional licensure to graduates of physician assistants curricula that are approved by the Accreditation Review Commission on Education for the Physician Assistant. Such provisional licensure shall be granted at the discretion of the Board.

(1973, c. 529, § 54-281.7; 1984, c. 46; 1988, c. 765; 1997, c. 806; 2013, c. 144.)

§ 54.1-2950.1. Advisory Board on Physician Assistants; membership; qualifications.

The Advisory Board on Physician Assistants shall consist of five members to be appointed by the Governor as follows: three members shall be licensed physician assistants who have practiced their professions in Virginia for not less than three years prior to their appointments; one shall be a physician who supervises at least one physician assistant; and one shall be a citizen member appointed from the Commonwealth at-large. Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, one member for a term of two years, and two members for a term of three years. Thereafter, appointments shall be for four-year terms. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

(1998, c. 319; 2002, c. 698; 2011, cc. 691, 714.)

§ 54.1-2951.

Repealed by Acts 1998, c. 319.

§ 54.1-2951.1. Requirements for licensure as a physician assistant.

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant which shall include, but not be limited to, the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and

3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. Prior to initiating practice with a supervising physician, the physician assistant shall notify the Board and provide information which shall include, but not be limited to, the following:

1. The name, address, telephone number and any changes thereto, of the physician or physicians who will supervise the assistant in the relevant practice setting; and

2. A description of the practice and the way in which the physician assistant will be utilized.

(1998, c. 319; 2011, c. 390; 2013, c. 144.)

§ 54.1-2951.2. Issuance of a license.

The Board shall issue the license to the physician assistant to practice under the supervision of a licensed doctor of medicine, osteopathy, or podiatry, in accordance with § 54.1-2951.1.

(1998, c. 319.)

§ 54.1-2951.3. Restricted volunteer license for certain physician assistants.

A. The Board may issue a restricted volunteer license to a physician assistant who meets the qualifications for licensure for physician assistants. The Board may refuse issuance of licensure pursuant to § 54.1-2915.

B. A person holding a restricted volunteer license under this section shall:

1. Only practice in public health or community free clinics approved by the Board;

2. Only treat patients who have no insurance or who are not eligible for financial assistance for medical care; and

3. Not receive remuneration directly or indirectly for practicing as a physician assistant.

C. A physician assistant with a restricted volunteer license issued under this section shall only practice as a physician assistant and perform certain delegated acts which constitute the practice of medicine to the extent and in the manner authorized by the Board if:

1. A physician who supervises physician assistants is available; or

2. The physician supervising any physician assistant periodically reviews the relevant patient records.

D. A restricted volunteer license granted pursuant to this section shall be issued to the physician assistant without charge, shall expire twelve months from the date of issuance, and may be renewed annually in accordance with regulations promulgated by the Board.

E. A physician assistant holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the regulations promulgated under this chapter unless otherwise provided for in this section.

(1998, c. 319; 2005, c. 163.)

§ 54.1-2952. Supervision of assistants by licensed physician, or podiatrist; services that may be performed by assistants; responsibility of licensee; employment of assistants.

A. A physician or a podiatrist licensed under this chapter may apply to the Board to supervise assistants and delegate certain acts which constitute the practice of medicine to the extent and in the manner authorized by the Board. The physician shall provide continuous supervision as required by this section; however, the requirement for physician supervision of assistants shall

not be construed as requiring the physical presence of the supervising physician during all times and places of service delivery by assistants. Each team of supervising physician and physician assistant shall identify the relevant physician assistant's scope of practice, including, but not limited to, the delegation of medical tasks as appropriate to the physician assistant's level of competence, the physician assistant's relationship with and access to the supervising physician, and an evaluation process for the physician assistant's performance.

No licensee shall be allowed to supervise more than six assistants at any one time.

Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees which are supervised by one or more physicians or podiatrists may employ one or more assistants in accordance with the provisions of this section.

Activities shall be delegated in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a written practice supervision agreement between the assistant and the supervising health care provider and may include health care services which are educational, diagnostic, therapeutic, preventive, or include treatment, but shall not include the establishment of a final diagnosis or treatment plan for the patient unless set forth in the written practice supervision agreement. Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a licensee is authorized to delegate and supervise initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, when performed under the direction, supervision and control of the supervising licensee. When practicing in a hospital, the assistant shall report any acute or significant finding or change in a patient's clinical status to the supervising physician as soon as circumstances require, and shall record such finding in appropriate institutional records. The assistant shall transfer to a supervising physician the direction of care of a patient in an emergency department who has a life-threatening injury or illness. The supervising physician shall review, prior to the patient's discharge, the services rendered to each patient by a physician assistant in a hospital's emergency department. An assistant who is employed to practice in an emergency department shall be under the supervision of a physician present within the facility.

Further, unless otherwise prohibited by federal law or by hospital bylaws, rules, or policies, nothing in this section shall prohibit any physician assistant who is not employed by the emergency physician or his professional entity from practicing in a hospital emergency department, within the scope of his practice, while under continuous physician supervision as required by this section, whether or not the supervising physician is physically present in the facility. The supervising physician who authorizes such practice by his assistant shall (i) retain exclusive supervisory control of and responsibility for the assistant and (ii) be available at all times for consultation with both the assistant and the emergency department physician. Prior to the patient's discharge from the emergency department, the assistant shall communicate the proposed disposition plan for any patient under his care to both his supervising physician and the emergency department physician. No person shall have control of or supervisory responsibility for any physician assistant who is not employed by the person or the person's business entity.

B. No assistant shall perform any delegated acts except at the direction of the licensee and under his supervision and control. No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient has signed the protocol, pursuant to regulations of the Board, to act as supervising physician for that assistant. Every licensee, professional corporation or partnership of licensees, hospital or commercial enterprise that employs an assistant shall be fully responsible for the acts of the assistant in the care and treatment of human beings.

C. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working under the supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.

(1973, c. 529, §§ 54-281.4, 54-281.5; 1975, cc. 508, 565; 1985, c. 316; 1988, c. 765; 1992, c. 793; 1996, c. 779; 2000, cc. 467, 497; 2002, c. 387; 2005, c. 662; 2008, c. 281; 2012, c. 81.)

§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician assistant.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.) of this title, a licensed physician assistant shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.) of this title as follows: (i) Schedules V and VI controlled substances on and after July 1, 2001, (ii) Schedules IV through VI controlled substances on and after January 1, 2003, (iii) Schedule III through VI controlled substances on and after July 1, 2004, and (iv) Schedules II through VI controlled substances on and after July 1, 2007.

A licensed physician assistant shall have such prescriptive authority upon the provision to the Board of Medicine of such evidence as it may require that the assistant has entered into and is, at the time of writing a prescription, a party to a written agreement with a licensed physician or podiatrist which provides for the direction and supervision by such licensee of the prescriptive practices of the assistant. Such written agreements shall include the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the physician or podiatrist providing direction and supervision.

B. It shall be unlawful for the assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the written agreement between the licensee and the assistant.

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency that may include continuing education, testing, and/or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients; (ii) requirements for periodic site visits by supervising licensees who supervise and direct assistants who provide services at a location other than where the licensee regularly practices; and (iii) a requirement that the assistant disclose to his patients the name, address and telephone number of the supervising licensee and that he is a physician assistant. A separate office for the assistant shall not be established.

D. This section shall not prohibit a licensed physician assistant from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

(1992, c. 793; 1997, c. 806; 1999, c. 745; 2001, c. 465; 2003, c. 510; 2007, c. 16.)

§ 54.1-2952.2. When physician assistant signature accepted.

Whenever any law or regulation requires a signature, certification, stamp, verification, affidavit, or endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification, affidavit, or endorsement by a physician assistant.

(2011, c. 468.)

§ 54.1-2953. Renewal, revocation, suspension and refusal.

The Board may revoke, suspend, or refuse to renew an approval for any of the following:

1. Any reason stated in this chapter for revocation or suspension of the license of a practitioner;

2. Failure of the supervising licensee to supervise the assistant or failure of the employer to provide a licensee to supervise the assistant;

3. The assistant's engaging in acts beyond the scope of authority as approved by the Board;

4. Negligence or incompetence on the part of the assistant or the supervising licensee in his use of the assistant;

5. Violating or cooperating with others in violating any provision of this chapter or the regulations of the Board; or

6. A change in the Board's requirements for approval with which the assistant or the licensee does not comply.

(1973, c. 529, §§ 54-281.8, 54-281.9; 1985, c. 316; 1988, c. 765; 2013, c. 144.)

§ 54.1-2954. Respiratory care practitioner; definition.

"Respiratory care practitioner" means a person who has passed the examination for the entry level practice of respiratory care administered by the National Board for Respiratory Care, Inc., or other examination approved by the Board, who has complied with the regulations pertaining to licensure prescribed by the Board, and who has been issued a license by the Board.

(1985, c. 347, § 54-281.10; 1988, c. 765; 1998, c. 557.)

§ 54.1-2954.1. Powers of Board concerning respiratory care.

The Board shall take such actions as may be necessary to ensure the competence and integrity of any person who claims to be a respiratory care practitioner or who holds himself out to the public as a respiratory care practitioner or who engages in the practice of respiratory care and to that end the Board shall license persons as respiratory care practitioners. The Board shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant for licensure as a respiratory care practitioner during his service as a member of any branch of the armed forces of the United States as evidence of the satisfaction of the educational requirements for licensure as a respiratory care practitioner. The provisions hereof shall not prevent or prohibit other persons licensed pursuant to this chapter from continuing to practice respiratory care when such practice is in accordance with regulations promulgated by the Board.

The Board shall establish requirements for the supervised, structured education of respiratory care practitioners, including preclinical, didactic and laboratory, and clinical activities, and an examination to evaluate competency. All such training programs shall be approved by the Board.

(1990, c. 920; 1998, c. 557; 2011, c. 390.)

§ 54.1-2955. Restriction of titles.

It shall be unlawful for any person not holding a current and valid license from the State Board of Medicine to practice as a respiratory care practitioner or to assume the title, "Respiratory Care Practitioner" or to use, in conjunction with his name, the letters "RCP."

(1985, c. 347, § 54-281.11; 1988, c. 765; 1990, c. 920; 1998, c. 557.)

§ 54.1-2956. Advisory Board on Respiratory Care; appointment; terms; duties; etc.

A. The Advisory Board on Respiratory Care shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, and regulation of licensed respiratory care practitioners.

The Advisory Board shall consist of five members appointed by the Governor as follows: three members shall be at the time of appointment respiratory care practitioners who have practiced for not less than three years, one member shall be a physician licensed to practice medicine in the Commonwealth, and one member shall be appointed by the Governor from the Commonwealth at large. Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, one member for a term of two years, and two members for a term of three years. Thereafter, appointments shall be for four-year terms.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

B. The Advisory Board shall, under the authority of the Board, recommend to the Board for its enactment into regulation the criteria for licensure as a respiratory care practitioner and the standards of professional conduct for holders of licenses.

The Advisory Board shall also assist in such other matters dealing with respiratory care as the Board may in its discretion direct.

(1985, c. 347, §§ 54-281.12, 54-281.13; 1988, c. 765; 1990, c. 920; 1998, c. 557; 2011, cc. 691, 714.)

§ 54.1-2956.01. Exceptions to respiratory care practitioner's licensure.

The licensure requirements for respiratory care practitioners provided herein shall not prohibit the practice of respiratory care as an integral part of a program of study by students enrolled in an accredited respiratory care education program approved by the Board. Any student enrolled in accredited respiratory care education programs shall be identified as "Student RCP" and shall only deliver respiratory care under the direct supervision of an appropriate clinical instructor recognized by the education program.

(1998, c. 557.)

§ 54.1-2956.1. Powers of Board concerning occupational therapy.

The Board shall take such actions as may be necessary to ensure the competence and integrity of any person who practices occupational therapy or claims to be an occupational therapist or occupational therapy assistant or who holds himself out to the public as an occupational therapist or occupational therapy assistant or who engages in the practice of occupational therapy, and to that end it may license practitioners as occupational therapists or occupational therapy assistants who have met the qualifications established in regulation by the Board.

The Board shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant for licensure as an occupational therapist during his service as a member of any branch of the armed forces of the United States as evidence of the satisfaction of the educational requirements for licensure as an occupational therapist.

(1989, c. 306; 1998, c. 593; 2000, c. 782; 2004, c. 61; 2008, cc. 64, 89; 2011, c. 390.)

§ 54.1-2956.2. Advisory Board of Occupational Therapy.

The Advisory Board of Occupational Therapy, referred to hereinafter as "Advisory Board," shall assist the Board in the manner set forth in this chapter.

(1989, c. 306.)

§ 54.1-2956.3. Advisory Board of Occupational Therapy; composition; appointment.

The Advisory Board shall be comprised of five members appointed by the Governor for four-year terms. Three members shall be, at the time of appointment, licensed occupational therapists who have practiced for not less than three years, one member shall be a physician licensed to practice medicine in the Commonwealth, and one member shall be appointed by the Governor from the Commonwealth at large. Any vacancy occurring during a member's term shall be filled for the unexpired balance of that term.

(1989, c. 306; 2004, c. 61.)

§ 54.1-2956.4. Advisory Board of Occupational Therapy; powers.

The Advisory Board shall, under the authority of the Board:

1. Recommend to the Board, for its promulgation into regulation, the criteria for licensure as an occupational therapist or an occupational therapy assistant and the standards of professional conduct for holders of licenses.

2. Assess the qualifications of applicants for licensure and recommend licensure when applicants meet the required criteria. The recommendations of the Advisory Board on licensure of applicants shall be presented to the Board, which shall then issue or deny licenses. Any applicant who is aggrieved by a denial of recommendation on licensure of the Advisory Board may appeal to the Board.

3. Receive investigative reports of professional misconduct and unlawful acts and recommend sanctions when appropriate. Any recommendation of sanctions shall be presented to the Board, which may then impose sanctions or take such other action as may be warranted by law.

4. Assist in such other matters dealing with occupational therapy as the Board may in its discretion direct.

(1989, c. 306; 1998, c. 593; 2004, c. 61; 2008, cc. 64, 89.)

§ 54.1-2956.5. Unlawful to practice occupational therapy without license; restriction of titles for occupational therapy assistants.

A. It shall be unlawful for any person not holding a current and valid license from the Board to practice occupational therapy or to claim to be an occupational therapist or to assume the title "Occupational Therapist," "Occupational Therapist, Licensed," "Licensed Occupational Therapist," or any similar term, or to use the designations "O.T." or "O.T.L." or any variation thereof. However, a person who has graduated from a duly accredited educational program in occupational therapy may practice with the title "Occupational Therapist, License Applicant" or "O.T.L.-Applicant" until he has taken and received the results of any examination required by the Board or until six months from the date of graduation, whichever occurs sooner.

B. It shall be unlawful for any person to practice as an occupational therapy assistant as defined in § 54.1-2900 or to hold himself out to be or advertise that he is an occupational therapy assistant or use the designation "O.T.A." or any variation thereof unless such person holds a current and valid license from the Board to practice as an occupational therapy assistant. However, a person who has graduated from a duly accredited occupational therapy assistant education program may practice with the title "Occupational Therapy Assistant-License Applicant" or "O.T.A.-Applicant" until he has taken and received the results of any examination required by the Board or until six months from the date of graduation, whichever occurs sooner.

(1989, c. 306; 1998, c. 593; 2000, c. 782; 2004, c. 61; 2008, cc. 64, 89.)

§§ 54.1-2956.6. , 54.1-2956.7.

Repealed by Acts 1994, c. 803, effective January 1, 1997.

§ 54.1-2956.8. Advisory Board on Radiological Technology; appointments; terms; etc.

The Advisory Board on Radiological Technology shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration and regulation of certified radiological technology practitioners.

The Advisory Board shall consist of five members to be appointed by the Governor as follows: three members shall be licensed radiological technology practitioners who have been practicing in the Commonwealth for not less than three years prior to their appointments, one member shall be a board-certified radiologist licensed in the Commonwealth, and one member shall be a citizen member appointed from the Commonwealth at large. Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, one member for a term of two years, and two members for a term of three years. Thereafter, appointments shall be for four-year terms.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

(1990, c. 966; 2002, c. 698; 2011, cc. 691, 714.)

§ 54.1-2956.8:1. Unlawful to practice radiologic technology without license; unlawful designation as a radiologist assistant, radiologic technologist, or radiologic technologist, limited; Board to regulate radiologist assistants and radiologic technologists.

Except as set forth herein, it shall be unlawful for a person to practice or hold himself out as practicing as a radiologist assistant, radiologic technologist, or radiologic technologist, limited, unless he holds a license as such issued by the Board.

In addition, it shall be unlawful for any person who is not licensed under this chapter whose licensure has been suspended or revoked, or whose licensure has lapsed and has not been renewed to use in conjunction with his name the words "licensed radiologist assistant," "licensed radiologic technologist" or "licensed radiologic technologist, limited" or to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice radiologic technology.

The Board shall prescribe by regulation the qualifications governing the licensure of radiologist assistants, radiologic technologists, and radiologic technologists, limited. The regulations may include requirements for approved education programs, experience, examinations, and periodic review for continued competency.

The provisions of this section shall not apply to any employee of a hospital licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 acting within the scope of his employment or engagement as a radiologic technologist.

(1994, c. 803; 2009, cc. 83, 507.)

§ 54.1-2956.8:2. Requisite training and educational achievements of radiologist assistants, radiologic technologists, and radiologic technologists, limited.

The Board shall establish a testing program to determine the training and educational achievements of radiologist assistants, radiologic technologists, or radiologic technologists, limited. The Board may accept other evidence such as successful completion of a national certification examination, experience, or completion of an approved training program in lieu of testing and shall establish this as a prerequisite for approval of the licensee's application. The Board shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant for licensure as a radiologist assistant, radiologic technologist, or radiologic technologist, limited, during his service as a member of any branch of the armed forces of the United States as evidence of the satisfaction of the educational requirements for licensure.

(1994, c. 803; 2009, cc. 83, 507; 2011, c. 390.)

§ 54.1-2956.9. Unlawful to practice acupuncture without license; unlawful designation as acupuncturist; Board to regulate acupuncturists.

It shall be unlawful for a person to practice or to hold himself out as practicing as an acupuncturist unless he holds a license as such issued by the Board. A person licensed to practice acupuncture, when using the title "acupuncturist," shall include therewith the designation Lic.Ac. or L.Ac.

In addition, it shall be unlawful for any person who is not licensed under this chapter, whose licensure has been suspended or revoked, or whose licensure has lapsed and has not been renewed to use in conjunction with his name the words "licensed acupuncturist" or to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice acupuncture.

The Board of Medicine shall prescribe by regulation the qualifications governing the licensure of acupuncturists. Such regulations shall not restrict the practice of this profession to practitioners regulated by the Board on June 30, 1992, to practice the healing arts. The regulations shall at a minimum require that, prior to performing acupuncture, any acupuncturist who is not licensed to practice medicine, osteopathy, chiropractic or podiatry shall either (i) obtain written documentation that the patient had received a diagnostic examination from a licensed practitioner of medicine, osteopathy, chiropractic or podiatry with regard to the ailment or condition to be treated or (ii) provide to the patient a written recommendation for such a diagnostic examination. The regulations may include requirements for approved education programs, experience, and examinations. The regulations shall exempt from the requirement for Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) any foreign speaking acupuncturist who speaks the language of the majority of his clients.

(1991, c. 643; 1993, c. 753; 1996, c. 470; 1999, c. 779; 2000, c. 814.)

§ 54.1-2956.10. Requisite training and educational achievements of acupuncturists.

The Board shall establish a testing program to determine the training and educational achievements of acupuncturists, or the Board may accept other evidence such as successful completion of a national certification examination, experience, or completion of an approved training program in lieu of testing and shall establish this as a prerequisite for approval of the licensee's application.

(1991, c. 643; 1993, c. 753.)

§ 54.1-2956.11. Advisory Board on Acupuncture; composition; appointment.

The Advisory Board on Acupuncture, hereinafter referred to as the "Advisory Board," shall assist the Board of Medicine in carrying out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of acupuncturists. Nothing in this chapter shall be construed to authorize the Advisory Board to advise the Board of Medicine in matters pertaining to the regulations of doctors of medicine, osteopathy, chiropractic, or podiatry who are qualified by such regulations to practice acupuncture.

The Advisory Board shall consist of five members to be appointed by the Governor as follows: three members shall be licensed acupuncturists who have been practicing in Virginia for not less than three years; one member shall be a doctor of medicine, osteopathy, chiropractic or podiatry who is qualified to practice acupuncture in Virginia; and one member shall be a citizen member appointed from the Commonwealth at large. Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, two members for a term of two years, and one member for a term of three years. Thereafter, appointments shall be for four-year terms. Any vacancy occurring during a member's term shall be filled for the unexpired balance of that term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

(1991, c. 643; 1993, c. 753; 2000, c. 814; 2002, c. 698; 2003, c. 512; 2011, cc. 691, 714.)

§ 54.1-2957. Licensure and practice of nurse practitioners; practice agreements.

A. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It shall be unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

B. A nurse practitioner shall only practice as part of a patient care team. Each member of a patient care team shall have specific responsibilities related to the care of the patient or patients and shall provide health care services within the scope of his usual professional activities. Nurse practitioners practicing as part of a patient care team shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. Nurse practitioners who are certified registered nurse anesthetists shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16. Practice of patient care teams in all settings shall include the periodic review of patient charts or electronic health records and may include visits to the site where health care is delivered in the manner and at the frequency determined by the patient care team.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

C. The Board of Medicine and the Board of Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include a provision for appropriate physician input in complex clinical cases and patient emergencies and for

referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

D. The Boards may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, in the opinion of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth.

E. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

F. As used in this section:

"Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments; and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

(Code 1950, § 54-274; 1950, p. 98; 1958, c. 161; 1962, c. 127; 1966, c. 657; 1970, c. 69; 1973, cc. 105, 514, 529; 1975, c. 508; 1976, c. 15; 1980, c. 157; 1982, c. 220; 1985, cc. 303, 347; 1986, c. 377; 1988, c. 765; 2006, c. 750; 2012, c. 213.)

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner, other than a certified registered nurse anesthetist, shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.). Nurse practitioners shall have such prescriptive authority upon the provision to the Board of Medicine and the Board of Nursing of such evidence as they may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements

authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section shall either be signed by the patient care team physician who is practicing as part of a patient care team with the nurse practitioner or shall clearly state the name of the patient care team physician who has entered into the practice agreement with the nurse practitioner.

B. It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the written or electronic practice agreement.

C. The Board of Nursing and the Board of Medicine shall promulgate such regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

Regulations promulgated pursuant to this section shall include, at a minimum, such requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any member of a patient care team shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician and information regarding how to contact the patient care team physician.

2. Physicians shall not serve as a patient care team physician on a patient care team at any one time to more than six nurse practitioners.

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe Schedules II through VI controlled substances without the requirement for collaboration and consultation with a patient care team physician as part of a patient care team pursuant to § 54.1-2957 or a written or electronic practice agreement between the licensed nurse practitioner and a licensed physician while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

(1991, cc. 519, 524; 1992, c. 409; 1995, c. 506; 1999, c. 745; 2000, c. 924; 2005, c. 926; 2006, c. 494; 2012, c. 213.)

§ 54.1-2957.02. When nurse practitioner signature accepted.

Whenever any law or regulation requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification, affidavit or endorsement by a nurse practitioner.

(2004, c. 855.)

§ 54.1-2957.03. Certified nurse midwives; liability.

The certified nurse midwife who provided health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) nurse, (iii) prehospital emergency medical personnel, or (iv) hospital as defined in § 32.1-123 or agents thereof, who provides screening and stabilization health care services to a patient as a result of a certified nurse midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from liability for acts or omissions constituting ordinary negligence.

(2006, c. 750.)

§§ 54.1-2957.1. through 54.1-2957.3.

Repealed by Acts 1996, cc. 152 and 158.

§ 54.1-2957.4. Licensure as athletic trainer required; requisite training and educational requirements; powers of the Board concerning athletic training.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as an athletic trainer unless he holds a license as an athletic trainer issued by the Board. The Board shall issue licenses to practice athletic training to applicants for such licensure who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for the licensure of athletic trainers to ensure the appropriate training and educational credentials for the practice of athletic training. Such criteria may include experiential requirements and shall include one of the following: (i) a Virginia testing program to determine the quality of the training and educational credentials for and competence of athletic trainers, (ii) successful completion of a training program and passage of the certifying examination administered by the National Athletic Training Association Board of Certification resulting in certification as an athletic trainer by such national association, or (iii) completion of another Board-approved training program and examination.

C. At its discretion, the Board may grant provisional licensure to persons who have successfully completed an approved training program or who have met requisite experience criteria established by the Board. Such provisional licensure shall expire as provided for in the regulations of the Board.

D. The Board shall promulgate such regulations as may be necessary for the licensure of athletic trainers and the issuance of licenses to athletic trainers to practice in the Commonwealth. The Board's regulations shall assure the competence and integrity of any person claiming to be an athletic trainer or who engages in the practice of athletic training.

(1999, cc. 639, 682, 747; 2004, c. 669; 2013, c. 144.)

§ 54.1-2957.5. Advisory Board on Athletic Training established; duties; composition; appointment; terms.

A. The Advisory Board on Athletic Training shall assist the Board in formulating its requirements for the licensure of athletic trainers. In the exercise of this responsibility, the Advisory Board shall recommend to the Board the criteria for licensure of athletic trainers and the standards of professional conduct for licensees. The Advisory Board shall also assist in such other matters relating to the practice of athletic training as the Board may require.

B. The Advisory Board shall consist of five members appointed by the Governor for four-year terms. The first appointments shall provide for staggered terms with two members being appointed for a two-year term, two members being appointed for a three-year term and one member being appointed for a four-year term. Three members shall be at the time of appointment athletic trainers who are currently licensed by the Board and who have practiced in Virginia for not less than three years, including one athletic trainer employed at a secondary school, one employed at an institution of higher education, and one employed in the private sector; one member shall be a physician licensed to practice medicine in the Commonwealth; and one member shall be a citizen appointed by the Governor from the Commonwealth at large.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two full consecutive terms.

(1999, cc. 639, 682, 747; 2001, c. 61; 2004, c. 669; 2011, cc. 691, 714.)

§ 54.1-2957.6. Exceptions to athletic trainer licensure.

A. The provisions of this section shall not be construed to prohibit any individual from providing first aid, nor any coach, physical education instructor or other person from (i) conducting or assisting with exercise or conditioning programs or classes within the scope of their duties as employees or volunteers or (ii) applying protective taping to an uninjured body part.

B. The requirements for licensure of athletic trainers shall not prevent student athletic trainers from practicing athletic training under the supervision and control of a licensed athletic trainer pursuant to regulations promulgated by the Board.

C. Notwithstanding the provisions of §§ 54.1-2957.4 and 54.1-2957.5, any person who, prior to June 30, 2004, is employed in Virginia as an athletic trainer, or in the performance of his employment duties engages in the practice of athletic training and is certified pursuant to this section and §§ 54.1-2957.4 and 54.1-2957.5 as such statutes were in effect on June 30, 2004, shall not be required to obtain a license from the Board to continue to be so employed until July 1, 2005.

(1999, cc. 639, 682, 747; 2001, c. 61; 2003, c. 529; 2004, c. 669.)

§ 54.1-2957.7. Licensed midwife and practice of midwifery; definitions.

"Midwife" means any person who provides primary maternity care by affirmative act or conduct prior to, during, and subsequent to childbirth, and who is not licensed as a doctor of medicine or osteopathy or certified nurse midwife.

"Practicing midwifery" means providing primary maternity care that is consistent with a midwife's training, education, and experience to women and their newborns throughout the childbearing cycle, and identifying and referring women or their newborns who require medical care to an appropriate practitioner.

(2005, cc. 719, 917.)

§ 54.1-2957.8. Licensure of midwives; requisite training and educational requirements; fees.

A. It shall be unlawful for any person to practice midwifery in the Commonwealth or use the title of licensed midwife unless he holds a license issued by the Board. The Board may license an applicant as a midwife after such applicant has submitted evidence satisfactory to the Board that he has obtained the Certified Professional Midwife (CPM) credential pursuant to regulations adopted by the Board and in accordance with the provisions of §§ 54.1-2915 and 54.1-2916.

B. Persons seeking licensure as a midwife shall submit such information as required in the form and manner determined by the Board.

C. Persons seeking licensure shall pay the required license fee as determined by the Board.

(2005, cc. 719, 917.)

§ 54.1-2957.9. Regulation of the practice of midwifery.

The Board shall adopt regulations governing the practice of midwifery, upon consultation with the Advisory Board on Midwifery. The regulations shall (i) address the requirements for licensure to practice midwifery, including the establishment of standards of care, (ii) be consistent with the North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' standards of practice, except that prescriptive authority and the possession and administration of controlled

substances shall be prohibited, (iii) ensure independent practice, (iv) require midwives to disclose to their patients, when appropriate, options for consultation and referral to a physician and evidence-based information on health risks associated with birth of a child outside of a hospital or birthing center, as defined in subsection E of § 32.1-11.5, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation, (v) provide for an appropriate license fee, and (vi) include requirements for licensure renewal and continuing education. Such regulations shall not (a) require any agreement, written or otherwise, with another health care professional or (b) require the assessment of a woman who is seeking midwifery services by another health care professional.

License renewal shall be contingent upon maintaining a Certified Professional Midwife certification.

(2005, cc. 719, 917; 2009, c. 646.)

§ 54.1-2957.10. Advisory Board on Midwifery established; membership; duties; terms; sunset.

A. The Advisory Board on Midwifery is established as an advisory board in the executive branch of state government. The purpose of the Advisory Board is to assist the Board of Medicine in formulating regulations pertaining to the practice of midwifery. The Advisory Board shall also assist in such other matters relating to the practice of midwifery as the Board may require.

B. The Advisory Board shall consist of five nonlegislative citizen members to be appointed by the Governor, subject to confirmation by the General Assembly, including three Certified Professional Midwives, one doctor of medicine or osteopathy or certified nurse midwife who is licensed to practice in the Commonwealth and who has experience in out-of-hospital birth settings, and one citizen who has used out-of-hospital midwifery services. Nonlegislative citizen members of the Advisory Board shall be citizens of the Commonwealth of Virginia.

The initial appointments shall provide for staggered terms with two members being appointed for two-year terms, two members being appointed for three-year terms, and one member being appointed for a four-year term. Thereafter, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

C. The Advisory Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Advisory Board shall be held at the call of the chairman or whenever the majority of the members so request.

D. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Board of Medicine.

E. The Department of Health Professions shall provide staff support to the Advisory Board. All agencies of the Commonwealth shall provide assistance to the Advisory Board, upon request.

(2005, cc. 719, 917; 2008, c. 36.)

§ 54.1-2957.11. Requirements for disclosure.

Any person practicing as a licensed midwife shall provide disclosure of specific information in writing to any client to whom midwifery care is provided. Such disclosure shall include (i) a description of the midwife's qualifications, experience, and training; (ii) a written protocol for medical emergencies, including hospital transport, particular to each client; (iii) a description of the midwives' model of care; (iv) a copy of the regulations governing the practice of midwifery; (v) a statement concerning the licensed midwife's malpractice or liability insurance coverage; (vi) a description of the right to file a complaint with the Board of Medicine and the procedures for filing such complaint; and (vii) such other information as the Board of Medicine determines is appropriate to allow the client to make an informed choice to select midwifery care.

(2005, cc. 719, 917.)

§ 54.1-2957.12. Immunity.

No person other than the licensed midwife who provided care to the patient shall be liable for the midwife's negligent, grossly negligent or willful and wanton acts or omissions. Except as otherwise provided by law, no other licensed midwife, doctor of medicine or osteopathy, nurse, prehospital emergency medical personnel, or hospital as defined in § 32.1-123, or agents thereof, shall be exempt from liability (i) for their own subsequent and independent negligent, grossly negligent or willful and wanton acts or omissions or (ii) if such person has a business relationship with the licensed midwife who provided care to the patient. A doctor of medicine or osteopathy, nurse, prehospital emergency medical person, or hospital as defined in § 32.1-123, or agents thereof, shall not be deemed to have established a business relationship or relationship of agency, employment, partnership, or joint venture with the licensed midwife solely by providing consultation to or accepting referral from the midwife.

(2005, cc. 719, 917.)

§ 54.1-2957.13. Exceptions.

The provisions of §§ 54.1-2957.7 through 54.1-2957.12 shall not prevent or prohibit:

1. Any licensed midwife from delegating to an apprentice or personnel in his personal employ and supervised by him such activities or functions that are nondiscretionary and that do not

require the exercise of professional judgment for their performance, if such activities or functions are authorized by and performed for the licensed midwife and responsibility for such activities or functions is assumed by the licensed midwife; or

2. Any person from performing tasks related to the practice of midwifery under the direct and immediate supervision of a licensed doctor of medicine or osteopathy, a certified nurse midwife, or a licensed midwife during completion of the North American Registry of Midwives' Portfolio Evaluation Process Program within a time period specified in regulations adopted by the Board or while enrolled in an accredited midwifery education program.

(2005, cc. 719, 917.)

§ 54.1-2957.14. Advisory Board on Polysomnographic Technology; appointment; terms; duties.

A. The Advisory Board on Polysomnographic Technology shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, and regulation of licensed polysomnographic technologists.

The Advisory Board shall consist of five members appointed by the Governor for four-year terms. Three members shall be at the time of appointment polysomnographic technologists who have practiced for not less than three years, one member shall be a physician who specializes in the practice of sleep medicine and is licensed to practice medicine in the Commonwealth, and one member shall be appointed by the Governor from the Commonwealth at large.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

B. The Advisory Board shall, under the authority of the Board, recommend to the Board for its enactment into regulation the criteria for licensure as a polysomnographic technologist and the standards of professional conduct for holders of polysomnographic licenses.

The Advisory Board shall also assist in such other matters dealing with polysomnographic technology as the Board may in its discretion direct.

(2010, c. 838.)

§ 54.1-2957.15. Unlawful to practice as a polysomnographic technologist without a license.

A. It shall be unlawful for any person not holding a current and valid license from the Board of Medicine to practice as a polysomnographic technologist or to assume the title "licensed polysomnographic technologist," "polysomnographic technologist," or "licensed sleep tech."

B. Nothing in this section shall be construed to prohibit a health care provider licensed pursuant to this title from engaging in the full scope of practice for which he is licensed, including, but not limited to, respiratory care professionals.

C. For the purposes of this chapter, unless the context requires otherwise:

"Polysomnographic technology" means the process of analyzing, scoring, attended monitoring, and recording of physiologic data during sleep and wakefulness to assist in the clinical assessment and diagnosis of sleep/wake disorders and other disorders, syndromes, and dysfunctions that either are sleep related, manifest during sleep, or disrupt normal sleep/wake cycles and activities.

"Practice of polysomnographic technology" means the professional services practiced in any setting under the direction and supervision of a licensed physician involving the monitoring, testing, and treatment of individuals suffering from any sleep disorder. Other procedures include but are not limited to:

a. Application of electrodes and apparatus necessary to monitor and evaluate sleep disturbances, including application of devices that allow a physician to diagnose and treat sleep disorders, which disorders include but shall not be limited to insomnia, sleep-related breathing disorders, movement disorders, disorders of excessive somnolence, and parasomnias;

b. Under the direction of a physician, institution and evaluation of the effectiveness of therapeutic modalities and procedures including the therapeutic use of oxygen and positive airway pressure (PAP) devices, such as continuous positive airway pressure (CPAP) and bi-level positive airway pressure of non-ventilated patients;

c. Initiation of cardiopulmonary resuscitation, maintenance of patient's airway (which does not include endotracheal intubation);

d. Transcription and implementation of physician orders pertaining to the practice of polysomnographic technology;

e. Initiation of treatment changes and testing techniques required for the implementation of polysomnographic protocols under the direction and supervision of a licensed physician; and

f. Education of patients and their families on the procedures and treatments used during polysomnographic technology or any equipment or procedure used for the treatment of any sleep disorder.

(2010, c. 838.)

§ 54.1-2957.16. Licensure of behavior analysts and assistant behavior analysts; requirements; powers of the Board.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a behavior analyst or to use the title "Licensed Behavior Analyst" unless he holds a license as a behavior analyst issued by the Board. It shall be unlawful for any person to practice or to hold himself out as practicing as an assistant behavior analyst or to use the title "Licensed Assistant Behavior Analyst" unless he holds a license as an assistant behavior analyst issued by the Board.

The Board shall issue licenses to practice as a behavior analyst or an assistant behavior analyst to applicants for licensure who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for licensure as a behavior analyst, which shall include, but not be limited to, the following:

1. Documentation that the applicant is currently certified as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board or any other entity that is nationally accredited to certify practitioners of behavior analysis;

2. Documentation that the applicant conducts his professional practice in accordance with the Behavior Analyst Certification Board Guidelines for Responsible Conduct and Professional Ethical and Disciplinary Standards and any other accepted professional and ethical standards the Board deems necessary; and

3. Documentation that the applicant for licensure has not had his license or certification as a behavior analyst or as an assistant behavior analyst suspended or revoked and is not the subject of any disciplinary proceedings by the certifying board or in another jurisdiction.

C. The Board shall establish criteria for licensure as an assistant behavior analyst, which shall include, but not be limited to, the following:

1. Documentation that the applicant is currently certified as a Board Certified Assistant Behavior Analyst by the Behavior Analyst Certification Board or any other entity that is nationally accredited to certify practitioners of behavior analysis;

2. Documentation that the applicant conducts his professional practice in accordance with the Behavior Analyst Certification Board Guidelines for Responsible Conduct and Professional Ethical and Disciplinary Standards and any other accepted professional and ethical standards the Board deems necessary;

3. Documentation that the applicant for licensure has not had his license or certification as an assistant behavior analyst suspended or revoked and is not the subject of any disciplinary proceedings by the certifying board or in another jurisdiction; and

4. Documentation that the applicant's work is supervised by a licensed behavior analyst in accordance with the supervision requirements and procedures established by the Board.

D. The Board shall promulgate such regulations as may be necessary to implement the provisions of this chapter related to (i) application for and issuance of licenses to behavior analysts or assistant behavior analysts, (ii) requirements for licensure as a behavior analyst or an assistant behavior analyst, (iii) standards of practice for licensed behavior analysts or licensed assistant behavior analysts, (iv) requirements and procedures for the supervision of a licensed assistant behavior analyst by a licensed behavior analyst, and (v) requirements and procedures for supervision by licensed behavior analysts and licensed assistant behavior analysts of unlicensed individuals who assist in the provision of applied behavior analysis services.

E. The Board shall establish a fee, determined in accordance with methods used to establish fees for other health professionals licensed by the Board of Medicine, to be paid by all applicants for licensure as a behavior analyst or assistant behavior analyst.

(2012, c. 3.)

§ 54.1-2957.17. Exceptions to licensure requirements; supervision of unlicensed individuals by licensed behavior analysts and licensed assistant behavior analysts.

The provisions of § 54.1-2957.16 shall not be construed as prohibiting any professional licensed, certified, or registered by a health regulatory board from acting within the scope of his practice.

(2012, c. 3.)

§ 54.1-2958. Procedure for determining acceptability of foreign courses of study and educational institutions.

The Board may promulgate regulations and guidelines for determining the acceptability of courses of study and educational institutions in foreign countries. These regulations and guidelines shall include time limitations within which approval shall be granted or denied and for reapplication in cases of denial of approval, as well as notice of deficiencies in need of remediation, and a procedure for applying for renewal of approval.

The proceedings for approval shall be conducted pursuant to the Administrative Process Act (§ 2.2-4000 et seq.). The Board shall assess any institution electing formal proceedings under § 2.2-4020 the cost of such proceedings. These costs shall be limited to (i) the actual cost of recording the proceedings, including the preparation of a transcript, and (ii) the costs of the site visit committee, if deemed necessary by the Board, and preparation of the committee's testimony.

(1985, c. 337, § 54-306.1:2; 1988, c. 765.)

§ 54.1-2959. Supervised training programs; students enrolled in schools of medicine allowed to engage in certain activities; prohibition of unauthorized pelvic exams.

A. Students enrolled in schools of medicine may (i) participate in preceptorship programs which are a part of the training program of the medical school; or (ii) practice in clinics, hospitals, educational institutions, private medical offices or other health facilities, in a program approved by the school, under the direct tutorial supervision of a licensed physician who holds an appointment on the faculty of a school of medicine approved by the Board.

B. Students participating in a course of professional instruction or clinical training program shall not perform a pelvic examination on an anesthetized or unconscious female patient unless the patient or her authorized agent gives informed consent to such examination, the performance of such examination is within the scope of care ordered for the patient, or in the case of a patient incapable of giving informed consent, the examination is necessary for diagnosis or treatment of such patient.

(1984, c. 710, § 54-276.7:2; 1988, c. 765; 2007, c. 678.)

§ 54.1-2960. Medical students in hospitals.

Subject to such restrictions as the Board, in consultation with the deans of the medical schools of this Commonwealth, may prescribe by regulation, third and fourth year medical students engaged in a course of study approved by the Board may be employed by legally established and licensed hospitals to prepare medical history information and perform physical examinations where such practice is confined strictly to persons who are bona fide patients within the hospital or who receive treatment and advice in an outpatient department of the hospital. Such students shall be responsible and accountable at all times to a licensed physician member of the hospital staff. This section shall not have the effect of removing the responsibility of the attending physician to assure that a licensed physician shall do a history and physical examination on each hospitalized patient.

(1977, c. 568, § 54-276.7:1; 1988, c. 765.)

§ 54.1-2961. Interns and residents in hospitals.

A. Interns and residents holding temporary licenses may be employed in a legally established and licensed hospital, medical school or other organization operating an approved graduate medical education program when their practice is confined to persons who are bona fide patients within the hospital or other organization or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated with the graduate medical education program.

B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in subsection D and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program. No intern or resident holding a temporary license may be employed by any hospital or other organization operating an approved graduate medical education program unless he has completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice.

C. No intern or resident holding a temporary license shall serve in any hospital or other organization operating an approved graduate medical education program in this Commonwealth for longer than the time prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict with existing law and require such reports from hospitals or other organizations in the Commonwealth as may be necessary to carry out the provisions of this section.

D. Such employment shall be a part of an internship or residency training program approved by the Accreditation Council for Graduate Medical Education or American Osteopathic Association or American Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be employed as an intern or resident by any hospital or other organization

operating an approved graduate medical education program. The Board may determine the extent and scope of the duties and professional services which may be rendered by interns and residents.

E. The Board of Medicine shall adopt guidelines concerning the ethical practice of physicians practicing in emergency rooms, surgeons, and interns and residents practicing in hospitals, particularly hospital emergency rooms, or other organizations operating graduate medical education programs. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of Virginia Commonwealth University, the University of Virginia School of Medicine, the Eastern Virginia Medical School, the Medical Society of Virginia, and the Virginia Hospital and Health Care Association shall cooperate with the Board in the development of these guidelines.

The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from all patients or from the next of kin or legally authorized representative, to the extent practical under the circumstances in which medical care is being rendered, when the patient is incapable of making an informed decision, after such patients or other persons have been informed as to which physicians, residents, or interns will perform the surgery or other invasive procedure; (ii) except in emergencies and other unavoidable situations, the need, consistent with the informed consent, for an attending physician to be present during the surgery or other invasive procedure; (iii) policies to avoid situations, unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant hospital, medical school or other organization operating the graduate medical education program, in which a surgeon, intern or resident represents that he will perform a surgery or other invasive procedure that he then fails to perform; and (iv) policies addressing informed consent and the ethics of appropriate care of patients in emergency rooms. Such policies shall take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative to extent practical under the circumstances in which medical care is being rendered.

F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.

(Code 1950, § 54-276.7; 1952, c. 690; 1958, c. 294; 1964, c. 284; 1975, c. 508; 1978, c. 408; 1986, c. 307; 1987, c. 44; 1988, c. 765; 1998, c. 614; 2002, cc. 87, 478; 2003, c. 482.)

§ 54.1-2962. Division of fees between physicians and surgeons prohibited.

No surgeon or physician shall directly or indirectly share any fee charged for a surgical operation or medical services with a physician who brings, sends or recommends a patient to such surgeon for operation, or such physician for such medical services; and no physician who brings, sends, or recommends any patient to a surgeon for a surgical operation or medical services shall accept from such surgeon or physician any portion of a fee charged for such operation or medical services. This chapter shall not be construed as prohibiting the members of any regularly organized partnership of such surgeons or physicians from making any division of their total fees among themselves as they may determine or a group of duly licensed practitioners of any branch

or branches of the healing arts from using their joint fees to defray their joint operating costs. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(Code 1950, § 54-278; 1956, c. 389; 1988, c. 765.)

§ 54.1-2962.1. Solicitation or receipt of remuneration in exchange for referral prohibited.

No practitioner of the healing arts shall knowingly and willfully solicit or receive any remuneration directly or indirectly, in cash or in kind, in return for referring an individual or individuals to a facility or institution as defined in § 37.2-100 or a hospital as defined in § 32.1-123. The Board shall adopt regulations as necessary to carry out the provisions of this section. Such regulations shall exclude from the definition of "remuneration" any payments, business arrangements, or payment practices not prohibited by Title 42, Section 1320a-7b (b) of the United States Code, as amended, or any regulations promulgated pursuant thereto.

(1990, c. 379.)

§ 54.1-2962.2. Physician-patient relationship; effect of certain emergency department treatment.

A. Any physician-patient relationship that may be created by virtue of an on-call physician or his agent evaluating or treating a patient in the emergency department of a corporation, facility or institution licensed or owned or operated by the Commonwealth to provide health care shall be deemed terminated without further notice upon the discharge of the patient from the emergency department or if the patient is admitted to the corporation, facility or institution, his discharge therefrom, and after completion of follow-up as prescribed by the physician, unless the physician and the patient affirmatively elect to continue the physician-patient relationship.

B. Nothing in this section shall relieve a physician of his post-discharge duties required to satisfy the standard of care pursuant to § 8.01-581.20.

(2004, c. 878.)

§ 54.1-2963. Selling vitamins or food supplements in connection with a practice of the healing arts.

The Board shall have authority to promulgate regulations regulating the sale of vitamins or food supplements by any practitioner of the healing arts from the office in which he practices.

(1984, c. 325, § 54-278.2; 1988, c. 765.)

§ 54.1-2963.1. Disclosure of medical treatment options.

Any physician shall have the authority to disclose fully all medical treatment options to patients whether or not such treatment options are (i) experimental or covered services, (ii) services that the health insurer will not authorize, or (iii) the costs of the treatment will be borne by the health

insurer or the patient to facilitate an informed decision by the patient, if the physician determines that such an option is in the best interest of the patient. Any physician who discloses information concerning other medical treatment options to a person with whom he has established a physician-patient relationship shall not be liable to any health insurer, in an action instituted solely on behalf of the health insurer, for any civil damages resulting from the disclosure of such information. This section shall not affect any cause of action a patient may have against a physician.

For the purposes of this section, "medical treatment options" means any alternative or experimental therapeutic, psychiatric, medical treatment or procedure, health care service, drug, or remedy.

(2004, c. 675.)

§ 54.1-2963.2. (Expires July 1, 2018) Lyme disease testing information disclosure.

A. Every licensee or his in-office designee who orders a laboratory test for the presence of Lyme disease shall provide to the patient or his legal representative the following written information:

"ACCORDING TO THE CENTERS FOR DISEASE CONTROL AND PREVENTION, AS OF 2011 LYME DISEASE IS THE SIXTH FASTEST GROWING DISEASE IN THE UNITED STATES.

YOUR HEALTH CARE PROVIDER HAS ORDERED A LABORATORY TEST FOR THE PRESENCE OF LYME DISEASE FOR YOU. CURRENT LABORATORY TESTING FOR LYME DISEASE CAN BE PROBLEMATIC AND STANDARD LABORATORY TESTS OFTEN RESULT IN FALSE NEGATIVE AND FALSE POSITIVE RESULTS, AND IF DONE TOO EARLY, YOU MAY NOT HAVE PRODUCED ENOUGH ANTIBODIES TO BE CONSIDERED POSITIVE BECAUSE YOUR IMMUNE RESPONSE REQUIRES TIME TO DEVELOP ANTIBODIES. IF YOU ARE TESTED FOR LYME DISEASE, AND THE RESULTS ARE NEGATIVE, THIS DOES NOT NECESSARILY MEAN YOU DO NOT HAVE LYME DISEASE. IF YOU CONTINUE TO EXPERIENCE SYMPTOMS, YOU SHOULD CONTACT YOUR HEALTH CARE PROVIDER AND INQUIRE ABOUT THE APPROPRIATENESS OF RETESTING OR ADDITIONAL TREATMENT."

B. Licensees shall be immune from civil liability for the provision of the written information required by this section absent gross negligence or willful misconduct.

(2013, c. 215.)

§ 54.1-2964. Disclosure of interest in referral facilities and clinical laboratories.

A. Any practitioner of the healing arts shall, prior to referral of a patient to any facility or entity engaged in the provision of health-related services, appliances or devices, including but not limited to physical therapy, hearing testing, or sale or fitting of hearing aids or eyeglasses provide the patient with a notice in bold print that discloses any known material financial interest

of or ownership by the practitioner in such facility or entity and states that the services, appliances or devices may be available from other suppliers in the community. In making any such referral, the practitioner of the healing arts may render such recommendations as he considers appropriate, but shall advise the patient of his freedom of choice in the selection of such facility or entity. This section shall not be construed to permit any of the practices prohibited in § 54.1-2914 or Chapter 24.1 (§ 54.1-2410 et seq.) of this title.

In addition, any practitioner of the healing arts shall, prior to ordering any medical test from an independent clinical laboratory for a patient, provide the patient with notice in bold print that discloses any known material financial interest or ownership by the practitioner in such laboratory unless the independent clinical laboratory is operated by a publicly held corporation. The practitioner shall inform the patient about the accreditation status and credentials of the laboratory.

B. The Attorney General, an attorney of the Commonwealth, the attorney for a city, county or town, or any aggrieved patient may cause an action to be brought in the appropriate circuit court in the name of the Commonwealth, of the county, city or town, or of any aggrieved patient, to enjoin any violation of this section. The circuit court having jurisdiction may enjoin such violations, notwithstanding the existence of an adequate remedy at law. When an injunction is issued, the circuit court may impose a civil fine to be paid to the Literary Fund not to exceed $1,000. In any action under this section, it shall not be necessary that damages be proven.

(1986, c. 348, § 54-278.3; 1988, cc. 765, 874; 1989, c. 282; 1993, c. 869.)

§ 54.1-2965.

Repealed by Acts 1991, c. 643.

§ 54.1-2966. Physicians reporting disabilities to aircraft pilots licensing authorities exempt from liability; testifying in certain proceedings.

A. Any physician who, in good faith, reports the existence, or probable existence, of a mental or physical disability or infirmity in any person licensed or certificated to operate any type of aircraft, or any applicant for a license or certificate to operate any type of aircraft, to a governmental agency which is responsible for issuing, renewing, revoking or suspending such licenses or certificates, or which is responsible for air safety, which the physician believes will or reasonably could affect such person's ability to safely operate the aircraft he is licensed or certificated, or is seeking to be licensed or certificated, to operate shall not be liable for any civil damages resulting from such reporting, regardless of whether such person is, or has been, a patient of such physician, except when such reporting was done with malice.

B. Notwithstanding any provision of § 8.01-399, any physician may testify in any administrative hearing or other proceeding regarding the issuance, renewal, revocation or suspension of any license or certificate to pilot an aircraft of any person, regardless of whether such person is, or has been, a patient of such physician, giving evidence of the existence or probable existence, of a mental or physical disability or infirmity.

(1978, c. 561, § 54-276.9:1; 1988, c. 765.)

§ 54.1-2966.1. Physicians reporting disabilities of drivers.

Any physician who reports to the Department of Motor Vehicles the existence, or probable existence, of a mental or physical disability or infirmity of any person licensed to operate a motor vehicle which the physician believes affects such person's ability to operate a motor vehicle safely shall not be deemed to have violated the physician-patient privilege unless he has acted in bad faith or with malicious intent.

(1988, c. 798, § 54-276.9:2.)

§ 54.1-2967. Physicians and others rendering medical aid to report certain wounds.

Any physician or other person who renders any medical aid or treatment to any person for any wound which such physician or other person knows or has reason to believe is a wound inflicted by a weapon specified in § 18.2-308 and which wound such physician or other person believes or has reason to believe was not self-inflicted shall as soon as practicable report such fact, including the wounded person's name and address, if known, to the sheriff or chief of police of the county or city in which treatment is rendered. If such medical aid or treatment is rendered in a hospital or similar institution, such physician or other person rendering such medical aid or treatment shall immediately notify the person in charge of such hospital or similar institution, who shall make such report forthwith.

Any physician or other person failing to comply with this section shall be guilty of a Class 3 misdemeanor. Any person participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be immune from any civil liability in connection therewith, unless it is proved that such person acted in bad faith or with malicious intent.

(1970, c. 531, § 54-276.10; 1972, c. 194; 1975, c. 508; 1976, c. 331; 1979, c. 715; 1988, c. 765.)

§ 54.1-2968. Information about certain handicapped persons.

This chapter shall not be construed to prohibit any duly licensed physician from communicating the identity of any person under age twenty-two who has a physical or mental handicapping condition to appropriate agencies of the Commonwealth or any of its political subdivisions and other information regarding such person or condition which may be helpful to the agency in the planning or conduct of services for handicapped persons.

(1972, c. 431, § 54-276.11; 1988, c. 765.)

§ 54.1-2969. Authority to consent to surgical and medical treatment of certain minors.

A. Whenever any minor who has been separated from the custody of his parent or guardian is in need of surgical or medical treatment, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, as follows:

1. Upon judges with respect to minors whose custody is within the control of their respective courts.

2. Upon local directors of social services or their designees with respect to (i) minors who are committed to the care and custody of the local board by courts of competent jurisdiction, (ii) minors who are taken into custody pursuant to § 63.2-1517, and (iii) minors who are entrusted to the local board by the parent, parents or guardian, when the consent of the parent or guardian cannot be obtained immediately and, in the absence of such consent, a court order for such treatment cannot be obtained immediately.

3. Upon the Director of the Department of Corrections or the Director of the Department of Juvenile Justice or his designees with respect to any minor who is sentenced or committed to his custody.

4. Upon the principal executive officers of state institutions with respect to the wards of such institutions.

5. Upon the principal executive officer of any other institution or agency legally qualified to receive minors for care and maintenance separated from their parents or guardians, with respect to any minor whose custody is within the control of such institution or agency.

6. Upon any person standing in loco parentis, or upon a conservator or custodian for his ward or other charge under disability.

B. Whenever the consent of the parent or guardian of any minor who is in need of surgical or medical treatment is unobtainable because such parent or guardian is not a resident of the Commonwealth or his whereabouts is unknown or he cannot be consulted with promptness reasonable under the circumstances, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, upon judges of juvenile and domestic relations district courts.

C. Whenever delay in providing medical or surgical treatment to a minor may adversely affect such minor's recovery and no person authorized in this section to consent to such treatment for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon qualified emergency medical services personnel as defined in § 32.1-111.1 at the scene of an accident, fire or other emergency, a licensed health professional, or a licensed hospital by reason of lack of consent to such medical or surgical treatment. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.

D. Whenever delay in providing transportation to a minor from the scene of an accident, fire or other emergency prior to hospital admission may adversely affect such minor's recovery and no

person authorized in this section to consent to such transportation for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon emergency medical services personnel as defined in § 32.1-111.1, by reason of lack of consent to such transportation. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.

E. A minor shall be deemed an adult for the purpose of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported;

2. Medical or health services required in case of birth control, pregnancy or family planning except for the purposes of sexual sterilization;

3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for substance abuse as defined in § 37.2-100; or

4. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for mental illness or emotional disturbance.

A minor shall also be deemed an adult for the purpose of accessing or authorizing the disclosure of medical records related to subdivisions 1 through 4.

F. Except for the purposes of sexual sterilization, any minor who is or has been married shall be deemed an adult for the purpose of giving consent to surgical and medical treatment.

G. A pregnant minor shall be deemed an adult for the sole purpose of giving consent for herself and her child to surgical and medical treatment relating to the delivery of her child when such surgical or medical treatment is provided during the delivery of the child or the duration of the hospital admission for such delivery; thereafter, the minor mother of such child shall also be deemed an adult for the purpose of giving consent to surgical and medical treatment for her child.

H. Any minor 16 years of age or older may, with the consent of a parent or legal guardian, consent to donate blood and may donate blood if such minor meets donor eligibility requirements. However, parental consent to donate blood by any minor 17 years of age shall not be required if such minor receives no consideration for his blood donation and the procurer of the blood is a nonprofit, voluntary organization.

I. Any judge, local director of social services, Director of the Department of Corrections, Director of the Department of Juvenile Justice, or principal executive officer of any state or other institution or agency who consents to surgical or medical treatment of a minor in accordance with this section shall make a reasonable effort to notify the minor's parent or guardian of such action as soon as practicable.

J. Nothing in subsection G shall be construed to permit a minor to consent to an abortion without complying with § 16.1-241.

K. Nothing in subsection E shall prevent a parent, legal guardian or person standing in loco parentis from obtaining (i) the results of a minor's nondiagnostic drug test when the minor is not receiving care, treatment or rehabilitation for substance abuse as defined in § 37.2-100 or (ii) a minor's other health records, except when the minor's treating physician or the minor's treating clinical psychologist has determined, in the exercise of his professional judgment, that the disclosure of health records to the parent, legal guardian, or person standing in loco parentis would be reasonably likely to cause substantial harm to the minor or another person pursuant to subsection B of § 20-124.6.

(Code 1950, § 32-137; 1968, c. 71; 1970, c. 232, § 54-325.2; 1971, Ex. Sess., c. 183; 1972, cc. 323, 823; 1973, c. 337; 1974, cc. 44, 45, 639; 1977, cc. 523, 525; 1978, cc. 10, 401; 1979, c. 720; 1981, cc. 22, 454, 573; 1984, c. 72; 1988, c. 765; 1989, c. 733; 1999, c. 1001; 2000, c. 798; 2002, cc. 315, 747; 2005, cc. 181, 227; 2008, c. 330.)

§ 54.1-2970. Medical treatment for certain persons incapable of giving informed consent.

When a delay in treatment might adversely affect recovery, a licensed health professional or licensed hospital shall not be subject to liability arising out of a claim based on lack of informed consent or be prohibited from providing surgical, medical or dental treatment to an individual who is receiving service in a facility operated by the Department of Behavioral Health and Developmental Services or who is receiving case management services from a community services board or behavioral health authority and who is incapable of giving informed consent to the treatment by reason of mental illness or intellectual disability under the following conditions:

1. No legally authorized guardian or committee was available to give consent;

2. A reasonable effort is made to advise a parent or other next of kin of the need for the surgical, medical or dental treatment;

3. No reasonable objection is raised by or on behalf of the alleged incapacitated person; and

4. Two physicians, or in the case of dental treatment, two dentists or one dentist and one physician, state in writing that they have made a good faith effort to explain the necessary treatment to the individual, and they have probable cause to believe that the individual is incapacitated and unable to consent to the treatment by reason of mental illness or intellectual disability and that delay in treatment might adversely affect recovery.

The provisions of this section shall apply only to the treatment of physical injury or illness and not to any treatment for a mental, emotional or psychological condition.

Treatment pursuant to this section of an individual's mental, emotional or psychological condition when the individual is unable to make an informed decision and when no legally authorized guardian or committee is available to provide consent shall be governed by

regulations adopted by the State Board of Behavioral Health and Developmental Services under § 37.2-400.

(Code 1950, § 32-137.01; 1979, c. 212, § 54-325.2:1; 1988, c. 765; 1989, c. 591; 1997, c. 801; 2002, c. 80; 2009, cc. 813, 840; 2012, cc. 476, 507.)

§ 54.1-2970.1. Individual incapable of making informed decision; procedure for physical evidence recovery kit examination.

A. A licensed physician, physician assistant, nurse practitioner, or registered nurse may perform a physical evidence recovery kit examination for a person who is believed to be the victim of a sexual assault and who is incapable of making an informed decision regarding consent to such examination when:

1. There is a need to conduct the examination before the victim is likely to be able to make an informed decision in order to preserve physical evidence of the alleged sexual assault from degradation;

2. No legally authorized representative or other person authorized to consent to medical treatment on the individual's behalf is reasonably available to provide consent within the time necessary to preserve physical evidence of the alleged sexual assault; and

3. A capacity reviewer, as defined in § 54.1-2982, provides written certification that, based upon a personal examination of the individual, the individual is incapable of making an informed decision regarding the physical evidence recovery kit examination and that, given the totality of the circumstances, the examination should be performed. The capacity reviewer who provides such written certification shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available.

B. Any physical evidence recovery kit examination performed pursuant to this section shall be performed in accordance with the requirements of §§ 19.2-11.2 and 19.2-165.1 and shall protect the alleged victim's identity.

C. A licensed physician, physician assistant, nurse practitioner, or registered nurse who exercises due care under the provisions of this act shall not be liable for any act or omission related to performance of an examination in accordance with this section.

(2013, cc. 441, 532.)

§ 54.1-2971

Repealed by Acts 2008, cc. 35 and 77.

§ 54.1-2971.01. Prescription in excess of recommended dosage in certain cases.

A. Consistent with § 54.1-3408.1, a physician may prescribe a dosage of a pain-relieving agent in excess of the recommended dosage upon certifying the medical necessity for the excess dosage in the patient's medical record. Any practitioner who prescribes, dispenses or administers an excess dosage in accordance with this section and § 54.1-3408.1 shall not be in violation of the provisions of this title because of such excess dosage, if such excess dosage is prescribed, dispensed or administered in good faith for recognized medicinal or therapeutic purposes.

B. The Board of Medicine shall advise physicians of the provisions of this section and § 54.1-3408.1.

(1995, c. 277.)

§ 54.1-2971.1. Disclosure for certain treatment of infertility.

Before a physician commences treatment of a patient by in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer, including the administration of drugs for the stimulation or suppression of ovulation prefatory thereto, a disclosure form shall have been executed by the patient which includes, but need not be limited to, the rates of success for the particular procedure at the clinic or hospital where the procedure is to be performed. The information disclosed to the patient shall include the testing protocol used to ensure that gamete donors are free from known infection with human immunodeficiency viruses, the total number of live births, the number of live births as a percentage of completed retrieval cycles, and the rates for clinical pregnancy and delivery per completed retrieval cycle bracketed by age groups consisting of women under thirty years of age, women aged thirty through thirty-four years, women aged thirty-five through thirty-nine years, and women aged forty years and older.

(1991, c. 492; 1995, c. 519.)

§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses' or physician assistants' authority to pronounce death under certain circumstances.

A. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in this Commonwealth, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition which directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of such physician, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed and a specialist in the field of neurology, neurosurgery, electroencephalography, or critical care medicine, when based on the ordinary standards of medical practice, there is the absence of brain stem reflexes, spontaneous brain functions and spontaneous respiratory functions and, in the opinion of another physician and such specialist, based on the ordinary standards of medical practice and considering the

absence of brain stem reflexes, spontaneous brain functions and spontaneous respiratory functions and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such reflexes or spontaneous functions, and, in such event, death shall be deemed to have occurred at the time when these conditions first coincide.

B. A registered nurse or a physician assistant who practices under the supervision of a physician may pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician assistant works at (a) a home health organization as defined in § 32.1-162.7, (b) a hospice as defined in § 32.1-162.1, (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals for the purposes of this section, (d) the Department of Corrections, or (e) a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2; (ii) the nurse or physician assistant is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs; (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to § 54.1-2987.1 for the patient who has died. The nurse or physician assistant shall inform the patient's attending and consulting physicians of his death as soon as practicable.

The nurse or physician assistant shall have the authority to pronounce death in accordance with such procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the circumstances of the death are not anticipated or the death requires an investigation by a medical examiner, the nurse or physician assistant shall notify the chief medical examiner of the death and the body shall not be released to the funeral director.

This subsection shall not authorize a nurse or physician assistant to determine the cause of death. Determination of cause of death shall continue to be the responsibility of the attending physician, except as provided in § 32.1-263. Further, this subsection shall not be construed to impose any obligation to carry out the functions of this subsection.

This subsection shall not relieve any registered nurse or physician assistant from any civil or criminal liability that might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of Medicine regulations.

C. Death, as defined in subdivision A 2, shall be determined by one of the two physicians and recorded in the patient's medical record and attested by the other physician. One of the two physicians determining or attesting to brain death may be the attending physician regardless of his specialty so long as at least one of the physicians is a specialist, as set out in subdivision A 2.

D. The alternative definitions of death provided in subdivisions A 1 and A 2 may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.

(Code 1950, § 32-364.3:1; 1973, c. 252; 1979, c. 720, § 54-325.7; 1986, c. 237; 1988, c. 765; 1996, c. 1028; 1997, cc. 107, 453; 2002, c. 92; 2004, c. 92; 2010, c. 46; 2011, c. 613; 2012, c. 136.)

§ 54.1-2973. Persons who may authorize postmortem examination of decedent's body.

Any of the following persons, in order of priority stated, may authorize and consent to a postmortem examination and autopsy on a decedent's body for the purpose of determining the cause of death of the decedent, for the advancement of medical or dental education and research, or for the general advancement of medical or dental science, if: (i) no person in a higher class exists or no person in a higher class is available at the time authorization or consent is given, (ii) there is no actual notice of contrary indications by the decedent, and (iii) there is no actual notice of opposition by a member of the same or a prior class.

The order of priority shall be as follows: (1) any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825; (2) the spouse; (3) an adult son or daughter; (4) either parent; (5) an adult brother or sister; (6) a guardian of the person of the decedent at the time of his death; or (7) any other person authorized or under legal obligation to dispose of the body.

If the physician or surgeon has actual notice of contrary indications by the decedent or of opposition to an autopsy by a member of the same or a prior class, the autopsy shall not be performed. The persons authorized herein may authorize or consent to the autopsy after death or before death.

In cases of death where official inquiry is authorized or required by law, the provisions of Article 1 (§ 32.1-277 et seq.) of Chapter 8 of Title 32.1 shall apply. If at the time of death, a postmortem examination is authorized or required by law, any prior authorization or consent pursuant to this section shall not be valid unless the body is released by the Chief Medical Examiner or one of his assistants.

A surgeon or physician acting in accordance with the terms of this section shall not have any liability, civil or criminal, for the performance of the autopsy.

(Code 1950, § 32-364.4:1; 1973, c. 357; 1979, c. 720, § 54-325.8; 1986, c. 237; 1988, c. 765; 1998, c. 718.)

§ 54.1-2974. Sterilization operations for persons eighteen years or older capable of informed consent.

It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical sexual sterilization procedure on any person 18 years of age or older who has the capacity to give informed consent, when so requested in writing by such person. Prior to or at the time of such request, a full, reasonable, and comprehensible medical explanation as to the meaning and consequences of such an operation and as to alternative methods of contraception shall be given by the physician to the person requesting the operation.

(1981, c. 454, § 54-325.9; 1988, c. 765; 2013, c. 671.)

§ 54.1-2975. Sterilization operations for certain children incapable of informed consent.

It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical sexual sterilization procedure on a person fourteen years of age or older and less than eighteen years of age when:

1. A petition has been filed in the circuit court of the county or city wherein the child resides by the parent or parents having custody of the child or by the child's guardian, spouse, or next friend requesting that the operation be performed;

2. The court has made the child a party defendant, served the child, the child's guardian, if any, the child's spouse, if any, and the child's parent who has custody of the child with notice of the proceedings and appointed for the child an attorney-at-law to represent and protect the child's interests;

3. The court has determined that a full, reasonable, and comprehensible medical explanation as to the meaning, consequences, and risks of the sterilization operation to be performed and as to alternative methods of contraception has been given by the physician to the child upon whom the operation is to be performed, to the child's guardian, if any, to the child's spouse, if any, and, if there is no spouse, to the parent who has custody of the child;

4. The court has determined by clear and convincing evidence that the child's mental abilities are so impaired that the child is incapable of making his or her own decision about sterilization and is unlikely to develop mentally to a sufficient degree to make an informed judgment about sterilization in the foreseeable future;

5. The court, to the greatest extent possible, has elicited and taken into account the views of the child concerning the sterilization, giving the views of the child such weight in its decision as the court deems appropriate;

6. The court has complied with the requirements of § 54.1-2977; and

7. The court has entered an order authorizing a qualified physician to perform the operation not earlier than thirty days after the date of the entry of the order, and thirty days have elapsed. The court order shall state the date on and after which the sterilization operation may be performed.

(1981, c. 454, § 54-325.10; 1988, c. 765.)

§ 54.1-2976. Sterilization operations for certain adults incapable of informed consent.

It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical sexual sterilization procedure on a person eighteen years of age or older, who does not have the capacity to give informed consent to such an operation, when:

1. A petition has been filed in the circuit court of the county or city wherein the person resides by the person's parent or parents, guardian, spouse, or next friend requesting that the operation be performed;

2. The court has made the person a party defendant, served the person, the person's guardian, if any, the person's spouse, if any, and if there is no spouse, the person's parent with notice of the proceedings and appointed for the person an attorney-at-law to represent and protect the person's interests;

3. The court has determined that a full, reasonable, and comprehensible medical explanation as to the meaning, consequences, and risks of the sterilization operation to be performed and as to alternative methods of contraception has been given by the physician to the person upon whom the operation is to be performed, to the person's guardian, if any, to the person's spouse, if any, and, if there is no spouse, to the parent;

4. The court has determined (i) that the person has been legally adjudged to be incapacitated in accordance with Chapter 10 (§ 37.2-1000 et seq.) of Title 37.2 and (ii) that the person is unlikely to develop mentally to a sufficient degree to make an informed judgment about sterilization in the foreseeable future;

5. The court, to the greatest extent possible, has elicited and taken into account the views of the person concerning the sterilization, giving the views of the person such weight in its decision as the court deems appropriate;

6. The court has complied with the requirements of § 54.1-2977; and

7. The court has entered an order authorizing a qualified physician to perform the operation not earlier than thirty days after the date of the entry of the order, and thirty days have elapsed. The court order shall state the date on and after which the sterilization operation may be performed.

(1981, c. 454, § 54-325.11; 1988, c. 765; 1997, c. 921.)

§ 54.1-2977. Standards for court-authorized sterilization of certain persons.

A. In order for the circuit court to authorize the sterilization of a person in accordance with § 54.1-2975 or § 54.1-2976, it must be proven by clear and convincing evidence that:

1. There is a need for contraception. The court shall find that the person is engaging in sexual activity at the present time or is likely to engage in sexual activity in the near future and that pregnancy would not usually be intended by such person if such person were competent and engaging in sexual activity under similar circumstances;

2. There is no reasonable alternative method of contraception to sterilization;

3. The proposed method of sterilization conforms with standard medical practice, and the treatment can be carried out without unreasonable risk to the life and health of the person; and

4. The nature and extent of the person's mental disability renders the person permanently incapable of caring for and raising a child. The court shall base this finding on empirical evidence and not solely on standardized tests.

B. The criteria set out in subsection A of this section shall be established for the court by independent evidence based on a medical, social, and psychological evaluation of the person upon whom the sterilization operation is to be performed.

(1981, c. 454, § 54-325.12; 1988, c. 765.)

§ 54.1-2978. Reports of certain sterilizations.

The court shall report to the State Registrar of Vital Records the authorization of all sterilizations made in accordance with this article.

(1981, c. 454, § 54-325.13; 1988, c. 765.)

§ 54.1-2979. No liability for nonnegligent performance of operation.

Subject to the rules of law applicable generally to negligence, no physician licensed by the Board of Medicine shall be either civilly or criminally liable by reason of having performed a vasectomy, salpingectomy, or other surgical sexual sterilization procedure upon any person in this Commonwealth as authorized by this article.

(1981, c. 454, § 54-325.14; 1988, c. 765.)

§ 54.1-2980. Article inapplicable to certain medical or surgical treatment.

No provision in this article shall apply to or be construed so as to prevent, control, or regulate the medical or surgical treatment for sound therapeutic reasons of any person in this Commonwealth by a physician licensed by the Board of Medicine, which treatment may require sexual sterilization or may involve the nullification or destruction of the reproductive functions. For the purposes of this section the sterilization of a person whose health would be endangered by a pregnancy shall be deemed a medical or surgical treatment for sound therapeutic reasons.

(1981, c. 454, § 54-325.15; 1988, c. 765.)

§ 54.1-2981. Short title.

The provisions of this article shall be known and may be cited as the "Health Care Decisions Act."

(1983, c. 532, § 54-325.8:1; 1988, c. 765; 1992, cc. 748, 772.)

§ 54.1-2982. Definitions.

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement,

made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him. The declarant may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his body pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1.

"Attending physician" means the primary physician who has responsibility for the health care of the patient.

"Capacity reviewer" means a licensed physician or clinical psychologist who is qualified by training or experience to assess whether a person is capable or incapable of making an informed decision.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive.

"Health care" means the furnishing of services to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability, including but not limited to, medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital, nursing home, assisted living facility, or other health care facility; psychiatric or other mental health treatment; and life-prolonging procedures and palliative care.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, intellectual disability, or any other mental or physical disorder that precludes communication or impairs judgment, to make an informed decision about providing, continuing, withholding or withdrawing a specific health care treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed health care decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition,

would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of pain relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation.

"Patient care consulting committee" means a committee duly organized by a facility licensed to provide health care under Title 32.1 or Title 37.2, or a hospital or nursing home as defined in § 32.1-123 owned or operated by an agency of the Commonwealth that is exempt from licensure pursuant to § 32.1-124, to consult on health care issues only as authorized in this article. Each patient care consulting committee shall consist of five individuals, including at least one physician, one person licensed or holding a multistate licensure privilege under Chapter 30 (§ 54.1-3000 et seq.) to practice professional nursing, and one individual responsible for the provision of social services to patients of the facility. At least one committee member shall have experience in clinical ethics and at least two committee members shall have no employment or contractual relationship with the facility or any involvement in the management, operations, or governance of the facility, other than serving on the patient care consulting committee. A patient care consulting committee may be organized as a subcommittee of a standing ethics or other committee established by the facility or may be a separate and distinct committee. Four members of the patient care consulting committee shall constitute a quorum of the patient care consulting committee.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the health care is to be rendered or withheld.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means any person over the age of 18, including a spouse or blood relative of the declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

(1983, c. 532, § 54-325.8:2; 1984, c. 79; 1988, c. 765; 1991, c. 583; 1992, cc. 412, 748, 772; 1994, c. 956; 1997, c. 609; 1998, cc. 630, 803, 854; 1999, c. 814; 2000, c. 1034; 2005, c. 186; 2007, cc. 92, 907; 2009, cc. 211, 268; 2010, c. 792; 2012, cc. 476, 507.)

§ 54.1-2983. Procedure for making advance directive; notice to physician.

Any adult capable of making an informed decision may, at any time, make a written advance directive to address any or all forms of health care in the event the declarant is later determined to be incapable of making an informed decision. A written advance directive shall be signed by the declarant in the presence of two subscribing witnesses and may (i) specify the health care the declarant does or does not authorize; (ii) appoint an agent to make health care decisions for the declarant; and (iii) specify an anatomical gift, after the declarant's death, of all of the declarant's body or an organ, tissue or eye donation pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1. A written advance directive may be submitted to the Advance Health Care Directive Registry, pursuant to Article 9 (§ 54.1-2994 et seq.).

Further, any adult capable of making an informed decision who has been diagnosed by his attending physician as being in a terminal condition may make an oral advance directive (i) directing the specific health care the declarant does or does not authorize in the event the declarant is incapable of making an informed decision, and (ii) appointing an agent to make health care decisions for the declarant under the circumstances stated in the advance directive if the declarant should be determined to be incapable of making an informed decision. An oral advance directive shall be made in the presence of the attending physician and two witnesses.

An advance directive may authorize an agent to take any lawful actions necessary to carry out the declarant's decisions, including, but not limited to, granting releases of liability to medical providers, releasing medical records, and making decisions regarding who may visit the patient.

It shall be the responsibility of the declarant to provide for notification to his attending physician that an advance directive has been made. If an advance directive has been submitted to the Advance Health Care Directive Registry pursuant to Article 9 (§ 54.1-2994 et seq.), it shall be the responsibility of the declarant to provide his attending physician, legal representative, or other person with the information necessary to access the advance directive. In the event the declarant is comatose, incapacitated or otherwise mentally or physically incapable of communication, any other person may notify the physician of the existence of an advance directive and, if applicable, the fact that it has been submitted to the Advance Health Care Directive Registry. An attending physician who is so notified shall promptly make the advance directive or a copy of the advance directive, if written, or the fact of the advance directive, if oral, a part of the declarant's medical records.

In the event that any portion of an advance directive is invalid or illegal, such invalidity or illegality shall not affect the remaining provisions of the advance directive.

(1983, c. 532, § 54-325.8:3; 1988, c. 765; 1992, cc. 748, 772; 1997, c. 801; 2008, cc. 301, 696; 2009, cc. 211, 268; 2010, c. 16.)

§ 54.1-2983.1. Participation in health care research.

An advance directive may authorize an agent to approve participation by the declarant in any health care study approved by an institutional review board pursuant to applicable federal regulations, or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 that offers the prospect of direct therapeutic benefit to the declarant. An advance

directive may also authorize an agent to approve participation by the declarant in any health care study approved by an institutional review board pursuant to applicable federal regulations, or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 that aims to increase scientific understanding of any condition that the declarant may have or otherwise to promote human well-being, even though it offers no prospect of direct benefit to the patient.

(2009, cc. 211, 268.)

§ 54.1-2983.2. Capacity; required determinations.

A. Every adult shall be presumed to be capable of making an informed decision unless he is determined to be incapable of making an informed decision in accordance with this article. A determination that a patient is incapable of making an informed decision may apply to a particular health care decision, to a specified set of health care decisions, or to all health care decisions. No person shall be deemed incapable of making an informed decision based solely on a particular clinical diagnosis.

B. Prior to providing, continuing, withholding, or withdrawing health care pursuant to an authorization that has been obtained or will be sought pursuant to this article and prior to, or as soon as reasonably practicable after initiating health care for which authorization has been obtained or will be sought pursuant to this article, and no less frequently than every 180 days while the need for health care continues, the attending physician shall certify in writing upon personal examination of the patient that the patient is incapable of making an informed decision regarding health care and shall obtain written certification from a capacity reviewer that, based upon a personal examination of the patient, the patient is incapable of making an informed decision. However, certification by a capacity reviewer shall not be required if the patient is unconscious or experiencing a profound impairment of consciousness due to trauma, stroke, or other acute physiological condition. The capacity reviewer providing written certification that a patient is incapable of making an informed decision, if required, shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available. The cost of the assessment shall be considered for all purposes a cost of the patient's health care.

C. If, at any time, a patient is determined to be incapable of making an informed decision, the patient shall be notified, as soon as practical and to the extent he is capable of receiving such notice, that such determination has been made before providing, continuing, withholding, or withdrawing health care as authorized by this article. Such notice shall also be provided, as soon as practical, to the patient's agent or person authorized by § 54.1-2986 to make health care decisions on his behalf.

D. A single physician may, at any time, upon personal evaluation, determine that a patient who has previously been determined to be incapable of making an informed decision is now capable of making an informed decision, provided such determination is set forth in writing.

(2009, cc. 211, 268; 2010, c. 792.)

§ 54.1-2983.3. Exclusions and limitations of advance directives.

A. The absence of an advance directive by an adult patient shall not give rise to any presumption as to his intent to consent to or refuse any particular health care.

B. The provisions of this article shall not apply to authorization of nontherapeutic sterilization, abortion, or psychosurgery.

C. If any provision of a patient's advance directive conflicts with the authority conferred by any emergency custody, temporary detention, involuntary admission, and mandatory outpatient treatment order set forth in Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 or by any other provision of law, the provisions of the patient's advance directive that create the conflict shall have no effect. However, a patient's advance directive shall otherwise be given full effect.

D. The provisions of this article, if otherwise applicable, may be used to authorize admission of a patient to a facility, as defined in § 37.2-100, only if the admission is otherwise authorized under Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

(2009, cc. 211, 268; 2010, c. 792.)

§ 54.1-2984. Suggested form of written advance directives.

An advance directive executed pursuant to this article may, but need not, be in the following form:

ADVANCE MEDICAL DIRECTIVE

I, ..., willingly and voluntarily make known my wishes in the event that I am incapable of making an informed decision, as follows:

I understand that my advance directive may include the selection of an agent as well as set forth my choices regarding health care. The term "health care" means the furnishing of services to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability, including but not limited to, medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital, nursing home, assisted living facility, or other health care facility; psychiatric or other mental health treatment; and life-prolonging procedures and palliative care.

The phrase "incapable of making an informed decision" means unable to understand the nature, extent and probable consequences of a proposed health care decision or unable to make a rational evaluation of the risks and benefits of a proposed health care decision as compared with the risks and benefits of alternatives to that decision, or unable to communicate such understanding in any way.

The determination that I am incapable of making an informed decision shall be made by my attending physician and a capacity reviewer, if certification by a capacity reviewer is required by law, after a personal examination of me and shall be certified in writing. Such certification shall be required before health care is provided, continued, withheld or withdrawn, before any named agent shall be granted authority to make health care decisions on my behalf, and before, or as soon as reasonably practicable after, health care is provided, continued, withheld or withdrawn and every 180 days thereafter whil
e

the need for health care continues.

If, at any time, I am determined to be incapable of making an informed decision, I shall be notified, to the extent I am capable of receiving such notice, that such determination has been made before health care is provided, continued, withheld, or withdrawn. Such notice shall also be provided, as soo
n

as practical, to my named agent or person authorized by § 54.1-2986 to make health care decisions on my behalf. If I am later determined to be capable of making an informed decision by a physician, in writing, upon personal examination, any further health care decisions will require my informed consent.

(SELECT ANY OR ALL OF THE OPTIONS BELOW.)

OPTION I: APPOINTMENT OF AGENT (CROSS THROUGH OPTIONS I AND II BELOW IF YOU D
O

NOT WANT TO APPOINT AN AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.)

I hereby appoint ..... (primary agent), of ..... (address and telephone number), as my agent to make health care decisions on my behalf as authorized in this document. If ..... (primary agent) is not reasonably available or is unable or unwilling to act as my agent, then I appoint ..... (successor agent), of ..... (address and telephone number), to serve in that capacity .

I hereby grant to my agent, named above, full power and authority to make health care decisions on my behalf as described below whenever I have been determined to be incapable of making an informed decision. My agent's authority hereunder is effective as long as I am incapable of making an informed decision.

In exercising the power to make health care decisions on my behalf, my agent shall follow my desires and preferences as stated in this document or as otherwise known to my agent. My agent shall be guided by my medical diagnosis and prognosis and any information provided by my physicians as to the intrusiveness, pain, risks, and side effects associated with treatment or nontreatment. My agent shall not make any decision regarding my health care which he knows, or upon reasonable inquiry ought to know, is contrary to my religious beliefs or my basic values, whether expressed orally or in writing. If my agent cannot determine what health care choice I would have made on my own behalf, then my agent shall make a choice for me based upon what he believes to be in my best interests.

OPTION II: POWERS OF MY AGENT (CROSS THROUGH ANY LANGUAGE YOU DO NOT WANT AND ADD ANY LANGUAGE YOU DO WANT.)

The powers of my agent shall include the following:

A. To consent to or refuse or withdraw consent to any type of health care, treatment, surgical procedure, diagnostic procedure, medication and the use of mechanical or other procedures that affect any bodily function, including,

but not limited to, artificial respiration, artificially administered nutrition and hydration, and cardiopulmonary resuscitation. This authorization specifically includes the power to consent to the administration of dosages of pain-relieving medication in excess of recommended dosages in an amount sufficient to relieve pain, even if such medication carries the risk of addiction or of inadvertently hastening my death;

B. To request, receive, and review any information, verbal or written, regarding my physical or mental health, including but not limited to, medical and hospital records, and to consent to the disclosure of this information;

C. To employ and discharge my health care providers;

D. To authorize my admission to or discharge (including transfer to another facility) from any hospital, hospice, nursing home, assisted living facility or other medical care facility. If I have authorized admission to a health care facility for treatment of mental illness, that authority is stated elsewhere in this advance directive;

E. To authorize my admission to a health care facility for the treatment of mental illness for no more than 10 calendar days provided I do not protest the admission and a physician on the staff of or designated by the proposed admitting facility examines me and states in writing that I have a mental illness and I am incapable of making an informed decision about my admission, and that I need treatment in the facility; and to authorize my discharge (including transfer to another facility) from the facility;

F. To authorize my admission to a health care facility for the treatment of mental illness for no more than 10 calendar days, even over my protest, if a physician on the staff of or designated by the proposed admitting facility examines me and states in writing that I have a mental illness and I am incapable of making an informed decision about my admission, and that I need

treatment in the facility; and to authorize my discharge (including transfer to another facility) from the facility. [My physician or licensed clinical psychologist hereby attests that I am capable of making an informed decision and that I understand the consequences of this provision of my advance directive: _____];

G. To authorize the specific types of health care identified in this advance directive [specify cross-reference to other sections of directive] even over my protest. [My physician or licensed clinical psychologist hereby attests that I am capable of making an informed decision and that I understand the consequences of this provision of my advance directive: _____];

H. To continue to serve as my agent even in the event that I protest the agent's authority after I have been determined to be incapable of making an informed decision;

I. To authorize my participation in any health care study approved by an institutional review board or research review committee according to applicable federal or state law that offers the prospect of direct therapeutic benefit to me;

J. To authorize my participation in any health care study approved by an institutional review board or research review committee pursuant to applicable federal or state law that aims to increase scientific understanding of any condition that I may have or otherwise to promote human well-being, even though it offers no prospect of direct benefit to me;

K. To make decisions regarding visitation during any time that I am admitted to any health care facility, consistent with the following directions: .....; and

L. To take any lawful actions that may be necessary to carry out these

decisions, including the granting of releases of liability to medical providers.

Further, my agent shall not be liable for the costs of health care pursuant to his authorization, based solely on that authorization.

OPTION III: HEALTH CARE INSTRUCTIONS

(CROSS THROUGH PARAGRAPHS A AND/OR B IF YOU DO NOT WANT TO GIVE ADDITIONAL SPECIFIC INSTRUCTIONS ABOUT YOUR HEALTH CARE.)

A. I specifically direct that I receive the following health care if it is medically appropriate under the circumstances as determined by my attending physician: .....

B. I specifically direct that the following health care not be provided to me under the following circumstances (you may specify that certain health care not be provided under any circumstances): .....

OPTION IV: END OF LIFE INSTRUCTIONS

(CROSS THROUGH THIS OPTION IF YOU DO NOT WANT TO GIVE INSTRUCTIONS ABOUT YOUR HEALTH CARE IF YOU HAVE A TERMINAL CONDITION.)

If at any time my attending physician should determine that I have a terminal condition where the application of life-prolonging procedures - including artificial respiration, cardiopulmonary resuscitation, artificially administered nutrition, and artificially administered hydration - would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

OPTION: OTHER DIRECTIONS ABOUT LIFE-PROLONGING PROCEDURES. (If you wish to provide your own directions, or if you wish to add to the directions you have given above, you may do so here. If you wish to give specific instructions regarding certain life-prolonging procedures, such as artificial respiration,

cardiopulmonary resuscitation, artificially administered nutrition, and artificially administered hydration, this is where you should write them.) I direct that:

_____

_____

_____;

OPTION: My other instructions regarding my care if I have a terminal condition are as follows:

_____

_____

_____;

In the absence of my ability to give directions regarding the use of such life-prolonging procedures, it is my intention that this advance directive shall be honored by my family and physician as the final expression of my legal right to refuse health care and acceptance of the consequences of such refusal.

OPTION V: APPOINTMENT OF AN AGENT TO MAKE AN ANATOMICAL GIFT OR ORGAN, TISSUE OR EYE DONATION (CROSS THROUGH IF YOU DO NOT WANT TO APPOINT AN AGENT TO MAKE AN ANATOMICAL GIFT OR ANY ORGAN, TISSUE OR EYE DONATION FOR YOU.)

Upon my death, I direct that an anatomical gift of all of my body or certain organ, tissue or eye donations may be made pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1 and in accordance with my directions, if any. I hereby appoint ..... as my agent, of ..... (address and telephone number), to make any such anatomical gift or organ, tissue or eye donation following my death. I further direct that: ..... (declarant's directions concerning anatomical gift or organ, tissue or eye donation).

This advance directive shall not terminate in the event of my disability.

AFFIRMATION AND RIGHT TO REVOKE: By signing below, I indicate that I am emotionally and mentally capable of making this advance directive and that I understand the purpose and effect of this document. I understand I may revoke all or any part of this document at any time (i) with a signed, dated writing;

(ii) by physical cancellation or destruction of this advance directive by myself or by directing someone else to destroy it in my presence; or (iii) by my oral expression of intent to revoke.

_____ _____

(Date) (Signature of Declarant)

The declarant signed the foregoing advance directive in my presence.

(Witness) _____

(Witness) _____

(1983, c. 532, § 54-325.8:4; 1988, c. 765; 1989, c. 592; 1991, c. 583; 1992, cc. 748, 772; 1997, c. 609; 1999, c. 814; 2000, c. 810; 2005, c. 186; 2007, cc. 92, 907; 2009, cc. 211, 268; 2010, c. 792.)

§ 54.1-2985. Revocation of an advance directive.

A. An advance directive may be revoked at any time by the declarant who is capable of understanding the nature and consequences of his actions (i) by a signed, dated writing; (ii) by physical cancellation or destruction of the advance directive by the declarant or another in his presence and at his direction; or (iii) by oral expression of intent to revoke. A declarant may make a partial revocation of his advance directive, in which case any remaining and nonconflicting provisions of the advance directive shall remain in effect. In the event of the revocation of the designation of an agent, subsequent decisions about health care shall be made consistent with the provisions of this article. Any such revocation shall be effective when communicated to the attending physician. No civil or criminal liability shall be imposed upon any person for a failure to act upon a revocation unless that person has actual knowledge of such revocation.

B. If an advance directive has been submitted to the Advance Health Care Directive Registry pursuant to Article 9 (§ 54.1-2994 et seq.) of this chapter, any revocation of such directive shall also be notarized before being submitted to the Department of Health for removal from the registry. However, failure to notify the Department of Health of the revocation of a document filed with the registry shall not affect the validity of the revocation, as long as it meets the requirements of subsection A.

(1983, c. 532, § 54-325.8:5; 1988, c. 765; 1992, cc. 748, 772; 2008, cc. 301, 696; 2009, cc. 211, 268.)

§ 54.1-2985.1. Injunction; court-ordered health care.

A. On petition of any person to the circuit court of the county or city in which any patient resides or is located for whom health care will be or is currently being provided, continued, withheld, or withdrawn pursuant to this article, the court may enjoin such action upon finding by a preponderance of the evidence that the action is not lawfully authorized by this article or by other state or federal law.

B. Nothing in this article shall limit the ability of any person to petition and obtain a court order for health care, including mental health treatment authorized by Chapter 8 (§ 37.2-800 et seq.) of Title 37.2, of any patient pursuant to any other existing law in the Commonwealth.

(2009, cc. 211, 268.)

§ 54.1-2986. Procedure in absence of an advance directive; procedure for advance directive without agent; no presumption; persons who may authorize health care for patients incapable of informed decisions.

A. Whenever a patient is determined to be incapable of making an informed decision and (i) has not made an advance directive in accordance with this article or (ii) has made an advance directive in accordance with this article that does not indicate his wishes with respect to the health care at issue and does not appoint an agent, the attending physician may, upon compliance with the provisions of this section, provide, continue, withhold or withdraw health care upon the authorization of any of the following persons, in the specified order of priority, if the physician is not aware of any available, willing and capable person in a higher class:

1. A guardian for the patient. This subdivision shall not be construed to require such appointment in order that a health care decision can be made under this section; or

2. The patient's spouse except where a divorce action has been filed and the divorce is not final; or

3. An adult child of the patient; or

4. A parent of the patient; or

5. An adult brother or sister of the patient; or

6. Any other relative of the patient in the descending order of blood relationship; or

7. Except in cases in which the proposed treatment recommendation involves the withholding or withdrawing of a life-prolonging procedure, any adult, except any director, employee, or agent of a health care provider currently involved in the care of the patient, who (i) has exhibited special

care and concern for the patient and (ii) is familiar with the patient's religious beliefs and basic values and any preferences previously expressed by the patient regarding health care, to the extent that they are known. A quorum of a patient care consulting committee as defined in § 54.1-2982 of the facility where the patient is receiving health care or, if such patient care consulting committee does not exist or if a quorum of such patient care consulting committee is not reasonably available, two physicians who (a) are not currently involved in the care of the patient, (b) are not employed by the facility where the patient is receiving health care, and (c) do not practice medicine in the same professional business entity as the attending physician shall determine whether a person meets these criteria and shall document the information relied upon in making such determination.

If two or more of the persons listed in the same class in subdivisions A 3 through A 7 with equal decision-making priority inform the attending physician that they disagree as to a particular health care decision, the attending physician may rely on the authorization of a majority of the reasonably available members of that class.

B. Regardless of the absence of an advance directive, if the patient has expressed his intent to be an organ donor in any written document, no person noted in this section shall revoke, or in any way hinder, such organ donation.

(1983, c. 532, § 54-325.8:6; 1988, c. 765; 1992, cc. 748, 772; 1999, c. 814; 2000, c. 810; 2005, c. 716; 2009, cc. 211, 268; 2010, c. 792.)

§ 54.1-2986.1. Duties and authority of agent or person identified in § 54.1-2986.

A. If the declarant appoints an agent in an advance directive, that agent shall have (i) the authority to make health care decisions for the declarant as specified in the advance directive if the declarant is determined to be incapable of making an informed decision and (ii) decision-making priority over any person identified in § 54.1-2986. In no case shall the agent refuse or fail to honor the declarant's wishes in relation to anatomical gifts or organ, tissue or eye donation. Decisions to restrict visitation of the patient may be made by an agent only if the declarant has expressly included provisions for visitation in his advance directive; such visitation decisions shall be subject to physician orders and policies of the institution to which the declarant is admitted. No person authorized to make decisions for a patient under § 54.1-2986 shall have authority to restrict visitation of the patient.

B. Any agent or person authorized to make health care decisions pursuant to this article shall (i) undertake a good faith effort to ascertain the risks and benefits of, and alternatives to any proposed health care, (ii) make a good faith effort to ascertain the religious values, basic values, and previously expressed preferences of the patient, and (iii) to the extent possible, base his decisions on the beliefs, values, and preferences of the patient, or if they are unknown, on the patient's best interests.

(2009, cc. 211, 268.)

§ 54.1-2986.2. Health care decisions in the event of patient protest.

A. Except as provided in subsection B or C, the provisions of this article shall not authorize providing, continuing, withholding or withdrawing health care if the patient's attending physician knows that such action is protested by the patient.

B. A patient's agent may make a health care decision over the protest of a patient who is incapable of making an informed decision if:

1. The patient's advance directive explicitly authorizes the patient's agent to make the health care decision at issue, even over the patient's later protest, and the patient's attending physician or licensed clinical psychologist attested in writing at the time the advance directive was made that the patient was capable of making an informed decision and understood the consequences of the provision;

2. The decision does not involve withholding or withdrawing life-prolonging procedures; and

3. The health care that is to be provided, continued, withheld or withdrawn is determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law.

C. In cases in which a patient has not explicitly authorized his agent to make the health care decision at issue over the patient's later protest, a patient's agent or person authorized to make decisions pursuant to § 54.1-2986, may make a decision over the protest of a patient who is incapable of making an informed decision if:

1. The decision does not involve withholding or withdrawing life-prolonging procedures;

2. The decision does not involve (i) admission to a facility as defined in § 37.2-100 or (ii) treatment or care that is subject to regulations adopted pursuant to § 37.2-400;

3. The health care decision is based, to the extent known, on the patient's religious beliefs and basic values and on any preferences previously expressed by the patient in an advance directive or otherwise regarding such health care or, if they are unknown, is in the patient's best interests;

4. The health care that is to be provided, continued, withheld, or withdrawn has been determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law; and

5. The health care that is to be provided, continued, withheld, or withdrawn has been affirmed and documented as being ethically acceptable by the health care facility's patient care consulting committee, if one exists, or otherwise by two physicians not currently involved in the patient's care or in the determination of the patient's capacity to make health care decisions.

D. A patient's protest shall not revoke the patient's advance directive unless it meets the requirements of § 54.1-2985.

E. If a patient protests the authority of a named agent or any person authorized to make health care decisions by § 54.1-2986, except for the patient's guardian, the protested individual shall have no authority under this article to make health care decisions on his behalf unless the patient's advance directive explicitly confers continuing authority on his agent, even over his later protest. If the protested individual is denied authority under this subsection, authority to make health care decisions shall be determined by any other provisions of the patient's advance directive, or in accordance with § 54.1-2986 or in accordance with any other provision of law.

(2009, cc. 211, 268; 2010, c. 792.)

§ 54.1-2987. Transfer of patient by physician who refuses to comply with advance directive or health care decision.

An attending physician who refuses to comply with (i) a patient's advance directive or (ii) the health care decision of a patient's agent or (iii) the health care decision of an authorized person pursuant to § 54.1-2986 shall make a reasonable effort to transfer the patient to another physician and shall comply with § 54.1-2990.

This section shall apply even if the attending physician determines the health care requested to be medically or ethically inappropriate.

(1983, c. 532, § 54-325.8:7; 1988, c. 765; 1992, cc. 748, 772; 2000, cc. 590, 598; 2009, cc. 211, 268.)

§ 54.1-2987.1. Durable Do Not Resuscitate Orders.

A. A Durable Do Not Resuscitate Order may be issued by a physician for his patient with whom he has a bona fide physician/patient relationship as defined in the guidelines of the Board of Medicine, and only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.

B. If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such expression shall revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order. In no case shall any person other than the patient have authority to revoke a Durable Do Not Resuscitate Order executed upon the request of and with the consent of the patient himself.

If the patient is a minor or is otherwise incapable of making an informed decision and the Durable Do Not Resuscitate Order was issued upon the request of and with the consent of the person authorized to consent on the patient's behalf, then the expression by said authorized person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order.

When a Durable Do Not Resuscitate Order has been revoked as provided in this section, a new Order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.

C. Durable Do Not Resuscitate Orders issued in accordance with this section shall remain valid and in effect until revoked as provided in subsection B or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order. In accordance with this section and regulations promulgated by the Board of Health, (i) qualified emergency medical services personnel as defined in § 32.1-111.1 and (ii) licensed health care practitioners in any facility, program or organization operated or licensed by the Board of Health, the Department of Social Services, or the Department of Behavioral Health and Developmental Services or operated, licensed or owned by another state agency are authorized to follow Durable Do Not Resuscitate Orders that are available to them in a form approved by the Board of Health.

D. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw health care if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing health care pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision. Further, this section shall not authorize the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

E. For the purposes of this section:

"Health care provider" includes, but is not limited to, qualified emergency medical services personnel.

"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.

F. This section shall not prevent, prohibit or limit a physician from issuing a written order, other than a Durable Do Not Resuscitate Order, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practice.

G. Valid Do Not Resuscitate Orders or Emergency Medical Services Do Not Resuscitate Orders issued before July 1, 1999, pursuant to the then-current law, shall remain valid and shall be given effect as provided in this article.

(1992, c. 412; 1994, c. 956; 1998, cc. 564, 628, 630, 803, 854; 1999, c. 814; 2009, cc. 211, 268, 549, 813, 840.)

§ 54.1-2988. Immunity from liability; burden of proof; presumption.

A health care facility, physician or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of issuing a Durable Do Not Resuscitate Order or the providing, continuing, withholding or the withdrawal of health care under authorization or consent obtained in accordance with this article or as the result of the provision, withholding or withdrawal of ongoing health care in accordance with § 54.1-2990. No person or facility providing, continuing, withholding or withdrawing health care or physician issuing a Durable Do Not Resuscitate Order under authorization or consent obtained pursuant to this article or otherwise in accordance with § 54.1-2990 shall incur liability arising out of a claim to the extent the claim is based on lack of authorization or consent for such action.

Any agent or person identified in § 54.1-2986 who authorizes or consents to the providing, continuing, withholding or withdrawal of health care in accordance with this article shall not be subject, solely on the basis of that authorization or consent, to (i) criminal prosecution or civil liability for such action or (ii) liability for the cost of health care.

The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the providing, continuing, withholding or withdrawal of health care, or issuing, consenting to, making or following a Durable Do Not Resuscitate Order in accordance with § 54.1-2987.1 did not, in good faith, comply with the provisions of this article.

The distribution to patients of written advance directives in a form meeting the requirements of § 54.1-2984 and assistance to patients in the completion and execution of such forms by health care providers shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.) of this title.

An advance directive or Durable Do Not Resuscitate Order made, consented to or issued in accordance with this article shall be presumed to have been made, consented to, or issued voluntarily and in good faith by an adult who is capable of making an informed decision, physician or person authorized to consent on the patient's behalf.

(1983, c. 532, § 54-325.8:8; 1988, c. 765; 1992, cc. 412, 748, 772; 1998, cc. 803, 854; 1999, c. 814; 2000, cc. 590, 598; 2009, cc. 211, 268.)

§ 54.1-2989. Willful destruction, concealment, etc., of declaration or revocation; penalties.

A. Any person who willfully (i) conceals, cancels, defaces, obliterates, or damages the advance directive or Durable Do Not Resuscitate Order of another without the declarant's or patient's consent or the consent of the person authorized to consent for the patient; (ii) falsifies or forges the advance directive or Durable Do Not Resuscitate Order of another; or (iii) falsifies or forges a revocation of the advance directive or Durable Do Not Resuscitate Order of another shall be guilty of a Class 1 misdemeanor. If such action causes life-prolonging procedures to be utilized

in contravention of the previously expressed intent of the patient or a Durable Do Not Resuscitate Order, the person committing such action shall be guilty of a Class 6 felony.

B. Any person who willfully (i) conceals, cancels, defaces, obliterates, or damages the advance directive or Durable Do Not Resuscitate Order of another without the declarant's or patient's consent or the consent of the person authorized to consent for the patient, (ii) falsifies or forges the advance directive or Durable Do Not Resuscitate Order of another, (iii) falsifies or forges a revocation of the advance directive or Durable Do Not Resuscitate Order of another, or (iv) conceals or withholds personal knowledge of the revocation of an advance directive or Durable Do Not Resuscitate Order, with the intent to cause a withholding or withdrawal of life-prolonging procedures, contrary to the wishes of the declarant or a patient, and thereby, because of such act, directly causes life-prolonging procedures to be withheld or withdrawn and death to be hastened, shall be guilty of a Class 2 felony.

(1983, c. 532, § 54-325.8:9; 1988, c. 765; 1992, cc. 412, 748, 772; 1998, cc. 803, 854; 1999, c. 814; 2009, cc. 211, 268.)

§ 54.1-2989.1. Failure to deliver advance directive.

An agent in possession of an advance medical directive vesting any power or authority in him shall, when the instrument is otherwise valid, be deemed to possess the powers and authority granted by such instrument notwithstanding any failure by the declarant to deliver the instrument to him, and persons dealing with such agent shall have no obligation to inquire into the manner or circumstances by which such possession was acquired; provided, however, that nothing herein shall preclude the court from considering such manner or circumstances as relevant factors in a proceeding brought to remove the agent or revoke the directive.

(2003, c. 269.)

§ 54.1-2990. Medically unnecessary treatment not required; procedure when physician refuses to comply with an advance directive or a designated person's treatment decision; mercy killing or euthanasia prohibited.

A. Nothing in this article shall be construed to require a physician to prescribe or render health care to a patient that the physician determines to be medically or ethically inappropriate. However, in such a case, if the physician's determination is contrary to the request of the patient, the terms of a patient's advance directive, the decision of an agent or person authorized to make decisions pursuant to § 54.1-2986, or a Durable Do Not Resuscitate Order, the physician shall make a reasonable effort to inform the patient or the patient's agent or person with decision-making authority pursuant to § 54.1-2986 of such determination and the reasons for the determination. If the conflict remains unresolved, the physician shall make a reasonable effort to transfer the patient to another physician who is willing to comply with the request of the patient, the terms of the advance directive, the decision of an agent or person authorized to make decisions pursuant to § 54.1-2986, or a Durable Do Not Resuscitate Order. The physician shall provide the patient or his agent or person with decision-making authority pursuant to § 54.1-2986 a reasonable time of not less than fourteen days to effect such transfer. During this period,

the physician shall continue to provide any life-sustaining care to the patient which is reasonably available to such physician, as requested by the patient or his agent or person with decision-making authority pursuant to § 54.1-2986.

B. For purposes of this section, "life-sustaining care" means any ongoing health care that utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, including hydration, nutrition, maintenance medication, and cardiopulmonary resuscitation.

C. Nothing in this section shall require the provision of health care that the physician is physically or legally unable to provide, or health care that the physician is physically or legally unable to provide without thereby denying the same health care to another patient.

D. Nothing in this article shall be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

(1983, c. 532, § 54-325.8:10; 1988, c. 765; 1992, cc. 748, 772; 1999, c. 814; 2000, cc. 590, 598; 2009, cc. 211, 268.)

§ 54.1-2991. Effect of declaration; suicide; insurance; declarations executed prior to effective date.

The withholding or withdrawal of life-prolonging procedures in accordance with the provisions of this article shall not, for any purpose, constitute a suicide. Nor shall the making of an advance directive pursuant to this article affect the sale, procurement or issuance of any policy of life insurance, nor shall the making of an advance directive or the issuance of a Durable Do Not Resuscitate Order pursuant to this article be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated by the withholding or withdrawal of life-prolonging procedures from an insured patient in accordance with this article, notwithstanding any term of the policy to the contrary. A person shall not be required to make an advance directive or consent to a Durable Do Not Resuscitate order as a condition for being insured for, or receiving, health care services.

The declaration of any patient made prior to July 1, 1983, an advance directive made prior to July 1, 1992, or the issuance, in accordance with the then current law, of a Do Not Resuscitate Order or an Emergency Medical Services Do Not Resuscitate Order prior to July 1, 1999, shall be given effect as provided in this article.

(1983, c. 532, § 54-325.8:11; 1988, c. 765; 1992, cc. 412, 748, 772; 1999, c. 814; 2009, cc. 211, 268.)

§ 54.1-2992. Preservation of existing rights.

The provisions of this article are cumulative with existing law and shall not be construed to modify an individual's right to consent or refuse to consent to medical treatment if he is capable of making an informed decision, or to alter or limit the authority that otherwise exists under the

common law, statutes or regulations of the Commonwealth (i) of a health care provider to provide health care; or (ii) of a person's agent, guardian or other legally authorized representative to make decisions on behalf of a person who is incapable of making an informed decision. The provisions of this article shall not impair any existing rights or responsibilities which a health care provider, a patient, including a minor or incapacitated patient, or a patient's family may have in regard to the providing, continuing, withholding or withdrawal of life-prolonging medical procedures under the common law or statutes of the Commonwealth; however, this section shall not be construed to authorize violations of § 54.1-2990.

(1983, c. 532, § 54-325.8:12; 1988, c. 765; 1992, cc. 748, 772; 1997, c. 801; 2000, cc. 590, 598; 2009, cc. 211, 268.)

§ 54.1-2993. Reciprocity.

An advance directive executed in another state shall be deemed to be validly executed for the purposes of this article if executed in compliance with the laws of the Commonwealth of Virginia or the laws of the state where executed. Such advance directives shall be construed in accordance with the laws of the Commonwealth of Virginia.

(1992, cc. 748, 772.)

§ 54.1-2994. Advance Health Care Directive Registry established.

The Department of Health shall make available a secure online central registry for advance health care directives.

(2008, cc. 301, 696.)

§ 54.1-2995. Filing of documents with the registry; regulations; fees.

A. A person may submit any of the following documents and the revocations of these documents to the Department of Health for filing in the Advance Health Care Directive Registry established pursuant to this article:

1. A health care power of attorney.

2. An advance directive created pursuant to Article 8 (§ 54.1-2981 et seq.) of this chapter or a subsequent act of the General Assembly.

3. A declaration of an anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.).

B. Any document and any revocation of a document submitted for filing in the registry shall be notarized regardless of whether notarization is required for its validity. The document may be submitted for filing only by the person who executed the document, and shall be accompanied by any fee required by the Department of Health.

C. All data and information contained in the registry shall remain confidential and shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

D. The Board of Health shall promulgate regulations to carry out the provisions of this article, which shall include, but not be limited to (i) a determination of who may access the registry, including physicians, other licensed health care providers, the declarant, and his legal representative or designee; (ii) a means of annually reminding registry users of which documents they have registered; and (iii) fees for filing a document with the registry. Such fees shall not exceed the direct costs associated with development and maintenance of the registry and with the education of the public about the availability of the registry, and shall be exempt from statewide indirect costs charged and collected by the Department of Accounts. No fee shall be charged for the filing of a document revoking any document previously filed with the registry.

(2008, cc. 301, 696.)

§ 54.1-2996. Validity of unregistered documents.

Failure to register a document with the registry maintained by the Department of Health pursuant to this article shall not affect the document's validity. Failure to notify the Department of Health of the revocation of a document filed with the registry shall not affect the validity of a revocation that meets the statutory requirements for the revocation to be valid.

(2008, cc. 301, 696.)