

Advisory on Behavior Analysis

**Virginia Board of Medicine
January 30 , 2017
10:00 a.m.**

Here you will find a DRAFT AGENDA and a DRAFT PACKET OF SUPPORTING MATERIALS.

This information is in DRAFT form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3708(D).

Advisory Board on Behavior Analysts

Board of Medicine
Monday, January 30, 2017, 10:00 a.m.
9960 Mayland Drive, Suite 201
Richmond, Virginia

Call to Order – Keri Bethune, Ph.D., BCBA-D

Emergency Egress Procedures – Alan Heaberlin

i

Roll Call- Denise Mason

Adoption of the Agenda

Approval of Minutes of October 3, 2016

1-4

Public Comment on Agenda Items (15 minutes)

New Business

1. Legislative Update – Elaine Yeatts 5-13
2. HB2095 Registration of Peer Recovery Specialists and Qualified Mental Health Professionals – Elaine Yeatts 14-20
3. Amended regulation 18VAC85015-90 to Increase Hours of CE - Elaine Yeatts 21-22
4. New Registered Behavior Technician Credential – Alan Heaberlin 23

Announcements

Next Meeting Date: June 5, 2017 @ 10:00 a.m.

Adjournment

**PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)**

Training Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

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ADVISORY BOARD ON BEHAVIOR ANALYSIS
Minutes
October 3, 2016

The Advisory Board on Behavior Analysis met at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Keri Bethune, PhD, BCBA-D, Chair
Kate Lewis, MS, BCBA, LBA, Vice-Chair
Amanda Kusterer, BCaBA
Asha Patton Smith, MD
Gary Fletcher

MEMBERS ABSENT: None

STAFF PRESENT: William L. Harp, M.D., Executive Director
Cynthia M. Opher, Operations Manager
Travis H. Harts, DHP Senior Policy Analyst

GUESTS PRESENT: Christy Evanko, BCBA

CALL TO ORDER

Dr. Bethune called the meeting to order at 10:05 a.m.

EMERGENCY EGRESS PROCEDURES

Dr. Bethune provided the Emergency Egress Procedures.

ROLL CALL

Ms. Opher called roll; a quorum was declared.

ADOPTION OF AGENDA

Ms. Lewis moved to adopt the agenda as presented. The motion was seconded and carried.

APPROVAL OF MINUTES OF FEBRUARY 1, 2016

Ms. Lewis requested a correction to her credentials as listed under board members present; her credentials should read BCBA. Mr. Fletcher moved to accept the amendment and approve the minutes. The motion was seconded and carried unanimously.

PUBLIC COMMENT

Ms. Evanko requested the Advisory Board consider reciprocity with other states to streamline and decrease the processing time for licensure. In response, Board staff informed Ms. Evanko and the Advisory Board members that the Board of Medicine Credentials Committee would be meeting on Wednesday, October 19th on this issue, and all were invited to attend.

NEW BUSINESS

1. Comments received regarding continuing education, discussion and vote to recommend approval.

Ms. Yeatts summarized the comments received and advised that none posed any opposition. The amendments being recommended are as follows:

18VAC85-150-100. Continuing education requirements.

A. In order to renew an active license, a behavior analyst shall attest to having completed ~~24~~ 32 hours of continuing education and an assistant behavior analyst shall attest to having completed ~~16~~ 20 hours of continuing education as approved and documented by a sponsor recognized by the BACB within the last biennium. Four of the required hours shall be related to ethics in the practice of behavior analysis.

After discussion, Ms. Lewis moved to recommend adoption of the proposed amendments to the Board of Medicine. The motion was seconded and carried unanimously.

Ms. Kusterer noted as a follow-up to several of the comments that the February 2017 agenda should include a discussion to as to whether or not it would be beneficial to require BACB maintenance for license renewal.

Ms. Yeatts advised that the concern with such a requirement would be the financial commitment for licensees.

2. Promulgation of Regulations to Accept Volunteer Service for Fulfillment of Continuing Education Requirements

Ms. Yeatts explained the amendments to Chapter 82 as they relate to continuing education requirements and volunteer health services. The amendment reads:

6. To promulgate regulations in accordance with the Administrative Process Act (§§2.2-4400 et seq.) ~~which~~ that are reasonable and necessary to administer effectively the regulatory system, *which shall*

---DRAFT UNAPPROVED ---

include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whose or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this Chapter or of Chapter 1 (§54.1-100 et seq.) and Chapter 25 (§§54.1-2500 et seq.) of this title.

During the discussion, the members agreed that behavior analysts really couldn't take advantage of this option because the profession doesn't fit the model. However, such volunteer time may be beneficial for conducting assessments. Ms. Yeatts recommended that specific tasks not be carved out at this time but reassessed after a period of implementation.

After discussion, Mr. Fletcher moved to recommend adoption of the continuing education requirements for behavioral analysis to the Board of Medicine. The motion passed 4 to 1.

3. Discuss the portability of behavior analysis licenses across state lines

Ms. Yeatts advised there is no legal way to allow a licensee from another state to practice in Virginia unless there was a compact licensing agreement between the states for the profession.

Dr. Harp explained that it is incumbent on the applicant to be diligent about having the supporting documentation submitted to the Board. Speedy work by the applicant leads to the speedy issuance of a license.

Dr. Harp again reminded the board members and the public that the Board's Credentials Committee is scheduled to meet on October 19th at 3:00 p.m. to discuss endorsement by licensure and come up with proposed regulations that will be recommended to the Board of Medicine for its consideration.

Ms. Evanko advised that most of the comments received at VAAHA have to do with applicants not understanding the instruction sheet and how to submit their credentials and Form B's. It is not clear whether the e-mail from BACB is sufficient or applicants are to wait for and submit their original letter from BACB. Other concerns are the difficulty trying to obtain employment verification for the last 5 years, and their inability to contact someone at the Board of Medicine to ask these questions.

Dr. Harp noted that five years is not an unreasonable time period to request employment verifications and that it is valuable to the Board to be aware of the fact that an applicant was terminated by a previous employer. Dr. Harp then stated that, with the recent advent of a call center, applicants should be more successful in accessing Board staff regarding their questions.

The members discussed if there was a way to have a provisional license until a full license was issued. Staff advised that a provisional license would require a change in the law. Dr. Harp stated that there is currently one profession that has a provisional license, but at times the applicant doesn't apply for it, So when they do apply for licensure, they're licensed by a Consent Order for unlicensed practice.

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For the purpose of clarity, Ms. Evanko asked if the word “jurisdiction” can be changed to “state”.

Ms. Lewis remarked that the applicant needs to expect and prepare for the fact that the licensing process may take longer than a week.

4. Election of Officers

Dr. Smith moved to re-elect Keri Bethune, as Chair, and Kate Lewis, as Vice-President. There being no additional nominations, the motion was seconded and carried unanimously.

Announcements

Ms. Yeatts asked that the members look at the instructions and licensing process and forward any additional suggestions for clarification to Board staff.

Ms. Opher provided the current licensing numbers and reminded board members of the expiration date of their terms.

Next Meeting Date

The Advisory Board’s next meeting is January 30, 2017, 10:00 am.

Adjournment

The meeting was adjourned at 11:26 a.m.

Keri Bethune, PhD, BCBA-D
Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Operations Manager

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**Agenda Item: Regulatory Actions - Chart of Regulatory Actions
As of January 17, 2017**

Chapter		Action / Stage Information
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	<u>Licensure by endorsement</u> [Action 4716] NOIRA - Register Date: 1/23/17
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	<u>CE credit for volunteer practice</u> [Action 4703] Fast-Track - Register Date: 1/23/17 Effective: 3/9/17
[18 VAC 85 - 40]	Regulations Governing the Practice of Respiratory Therapists	<u>CE credit for volunteer practice and academic course</u> [Action 4706] Fast-Track - Register Date: 1/23/17 Effective: 3/9/17
[18 VAC 85 - 50]	Regulations Governing the Practice of Physician Assistants	<u>Elimination of required submission of certain documents</u> [Action 4629] Fast-Track - DPB Review in progress [Stage 7797]
[18 VAC 85 - 80]	Regulations for Licensure of Occupational Therapists	<u>NBCOT certification as option for CE</u> [Action 4461] Proposed - At Secretary's Office [Stage 7756]
[18 VAC 85 - 80]	Regulations for Licensure of Occupational Therapists	<u>CE credit for volunteer practice</u> [Action 4702] Fast-Track - Register Date: 1/23/17 Effective: 3/9/17
[18 VAC 85 - 101]	Regulations Governing the Licensure of Radiologic Technology	<u>CE credit for volunteer practice</u> [Action 4704] Fast-Track - Register Date: 1/23/17 Effective: 3/9/17
[18 VAC 85 - 101]	Regulations Governing the Licensure of Radiologic Technology	<u>Repeal of traineeships</u> [Action 4707] Fast-Track - Register Date: 1/23/17 Effective: 3/9/17
[18 VAC 85 - 140]	Regulations Governing the Practice of Polysomnographic Technologists	<u>CE credit for volunteer practice</u> [Action 4705] Fast-Track - Register Date: 1/23/17 Effective: 3/9/17
[18 VAC 85 - 150]	Regulations Governing the Practice of Behavior Analysis	<u>increase in hours of CE</u> [Action 4331] Final - Register Date: 2/6/17 Effective: 3/8/17
[18 VAC 85 - 170]	Regulations Governing the Practice of Genetic Counselors [under development]	<u>Initial regulations for licensure</u> [Action 4254] Final - At Secretary's Office

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Advisory Boards – Board of Medicine

Legislative Report

HB 1484 Board of Medicine to amend regulations governing licensure of occupational therapists.

Chief patron: Bell, Richard P.

Summary as introduced:

Board of Medicine to amend regulations governing licensure of occupational therapists to specify Type 1 continuous learning activities. Directs the Board of Medicine to amend regulations governing licensure of occupational therapists to provide that Type 1 continuing learning activities that shall be completed by the practitioner prior to renewal of a license shall consist of an organized program of study, classroom experience, or similar educational experience that is related to a licensee's current or anticipated roles and responsibilities in occupational therapy and approved or provided by one of the following organizations or any of its components: the Virginia Occupational Therapy Association; the American Occupational Therapy Association; the National Board for Certification in Occupational Therapy; a local, state, or federal government agency; a regionally accredited college or university; or a health care organization accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation. Such regulations shall also provide that Type 1 continuing learning activities may also include an American Medical Association Category 1 Continuing Medical Education program.

01/06/17 House: Impact statement from VDH (HB1484)
01/12/17 House: Assigned HWI sub: Subcommittee #2
01/19/17 House: Subcommittee recommends reporting with substitute (17-Y 0-N)
01/24/17 House: Reported from Health, Welfare and Institutions with substitute (22-Y 0-N)
01/24/17 House: Committee substitute printed 171034331-H1

HB 1637 Possession or distribution of marijuana for medical purposes; Crohn's disease.

Chief patron: Davis

Summary as introduced:

Possession or distribution of marijuana for medical purposes; Crohn's disease. Provides an affirmative defense in a prosecution for the possession of marijuana if the marijuana is in the form of cannabidiol oil or THC-A oil possessed pursuant to a valid written certification issued by a practitioner of medicine or osteopathy licensed by the Board of Medicine for purposes of treating Crohn's disease or alleviating such patient's symptoms. The bill provides that a practitioner shall not be prosecuted for distribution of marijuana for the treatment of or for alleviating the symptoms of Crohn's disease.

01/04/17 House: Prefiled and ordered printed; offered 01/11/17 17101991D
01/04/17 House: Referred to Committee for Courts of Justice
01/13/17 House: Assigned Courts sub: Criminal Law
01/17/17 House: Impact statement from VDH (HB1637)

HB 1748 Persons administering services for patients at certain clinics exempt from liability.

Chief patron: O'Bannon

Summary as introduced:

Persons administering services for patients at certain clinics exempt from liability. Adds to the list of persons who are exempt from liability resulting from the rendering of certain services persons who organize, arrange, promote, or administer health care services voluntarily and without compensation to any patient of any clinic that is organized in whole or in part for the delivery of health care services without charge or any clinic for the indigent and uninsured that is organized for the delivery of primary health care services as a federally qualified health center designated by the Centers for Medicare & Medicaid Services.

01/08/17 House: Prefiled and ordered printed; offered 01/11/17 17101057D

01/08/17 House: Referred to Committee for Courts of Justice

01/13/17 House: Assigned Courts sub: Civil Law

01/16/17 House: Impact statement from VDH (HB1748)

01/23/17 House: Subcommittee recommends reporting (10-Y 0-N)

HB 1885 Opioids; limit on amount prescribed.

Chief patron: Hugo

Summary as introduced:

Prescription of opioids; limits. Provides that a prescriber who prescribes a controlled substance containing an opioid to a patient shall not prescribe more than a seven-day supply unless (i) in the professional medical judgment of the prescriber, more than a seven-day supply of the controlled substance containing an opioid is required to stabilize the patient's acute medical condition, or (ii) the prescription is for the management of pain associated with cancer, use in palliative or hospice care, or management of chronic pain not associated with cancer. The bill also requires a prescriber to obtain information from the Prescription Monitoring Program at the time of initiating a new course of treatment that includes the prescribing of opioids anticipated to last more than seven consecutive days. Currently, a prescriber must request such information when a course of opioid treatment is expected to last more than 14 consecutive days.

01/10/17 House: Prefiled and ordered printed; offered 01/11/17 17100971D

01/10/17 House: Referred to Committee on Health, Welfare and Institutions

01/16/17 House: Impact statement from VDH (HB1885)

01/17/17 House: Assigned HWI sub: Subcommittee #1

01/23/17 House: Subcommittee recommends reporting with substitute (9-Y 0-N)

HB 2046 Prescription drug orders; information on proper disposal.

Chief patron: Murphy

Summary as introduced:

Prescription drug orders; information on proper disposal. Requires pharmacies to include written instructions for the proper disposal of unused dispensed drugs, including information about prescription drug disposal programs, in every order for opioids or other prescription drugs dispensed to a patient.

01/10/17 House: Prefiled and ordered printed; offered 01/11/17 17103610D

01/10/17 House: Referred to Committee on Health, Welfare and Institutions

01/16/17 House: Impact statement from VDH (HB2046)

01/17/17 House: Assigned HWI sub: Subcommittee #3

HB 2119 Laser hair removal; limits practice.

Chief patron: Keam

Summary as introduced:

Practice of laser hair removal. Limits the practice of laser hair removal to a person licensed to practice medicine or osteopathic medicine or to a properly trained person under the direction and supervision of a licensed doctor of medicine or osteopathic medicine.

01/10/17 House: Prefiled and ordered printed; offered 01/11/17 17102330D
01/10/17 House: Referred to Committee on Health, Welfare and Institutions
01/16/17 House: Impact statement from DPB (HB2119)
01/17/17 House: Assigned HWI sub: Subcommittee #3

HB 2135 Medical marijuana; written certification.

Chief patron: Levine

Summary as introduced:

Medical marijuana; written certification. Allows a person to possess marijuana or tetrahydrocannabinol pursuant to a valid written certification issued by a physician for the treatment of any medical condition and allows a physician or pharmacist to distribute such substances without being subject to prosecution. Under current law, a person has an affirmative defense to prosecution for possession of marijuana if the marijuana is in certain forms and the person has been issued a written certification by a physician that such marijuana is for the purposes of treating or alleviating the person's symptoms of intractable epilepsy. The bill requires that the person issued the written certification register with the Board of Pharmacy which will issue the person an identification card upon registration. The bill also clarifies that the penalties for forging or altering a recommendation for medical marijuana or for making or uttering a false or forged recommendation are the same as the penalties for committing the same acts with regard to prescriptions.

01/11/17 House: Prefiled and ordered printed; offered 01/11/17 17102682D
01/11/17 House: Referred to Committee for Courts of Justice
01/12/17 House: Impact statement from VCSC (HB2135)
01/16/17 House: Assigned Courts sub: Criminal Law
01/23/17 House: Impact statement from VDH (HB2135)

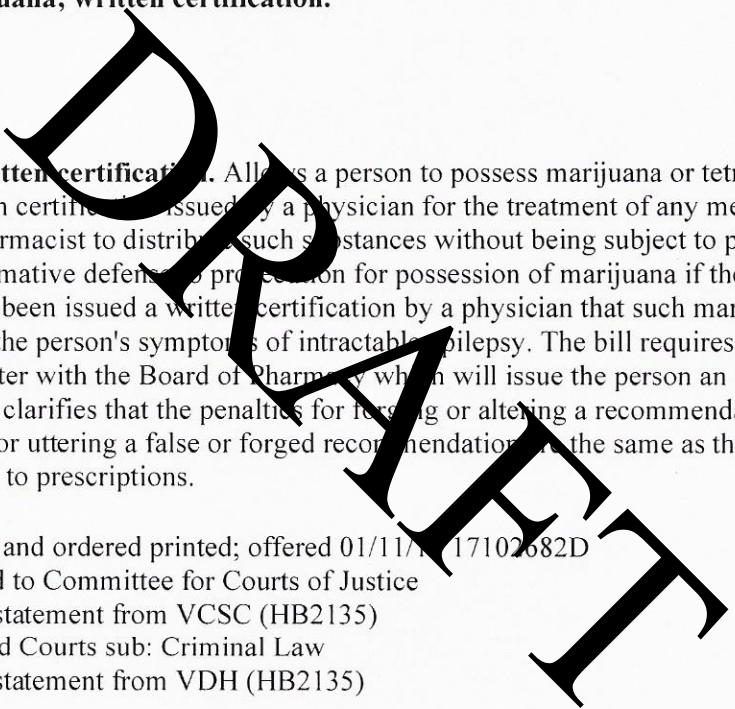
HB 2164 Drugs of concern; drug of concern.

Chief patron: Pillion

Summary as introduced:

Drugs of concern; gabapentin. Adds any material, compound, mixture, or preparation containing any quantity of gabapentin, including any of its salts, to the list of drugs of concern.

01/11/17 House: Prefiled and ordered printed; offered 01/11/17 17101055D
01/11/17 House: Referred to Committee on Health, Welfare and Institutions
01/17/17 House: Assigned HWI sub: Subcommittee #1
01/17/17 House: Impact statement from VDH (HB2164)
01/23/17 House: Subcommittee recommends reporting with amendment (9-Y 0-N)



SB 848 Naloxone; dispensing for use in opioid overdose reversal, etc.

Chief patron: Wexton

Summary as introduced:

Dispensing of naloxone. Allows a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides substance abuse treatment services to individuals at risk of experiencing opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 to dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber, (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The bill also provides that a person who dispenses naloxone shall not be liable for civil damages of ordinary negligence for acts or omissions resulting from the rendering of such treatment if he acts in good faith and that a person to whom naloxone has been dispensed pursuant to the provision of the bill may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

12/01/16 Senate: Referred to Committee for Courts of Justice
01/16/17 Senate: Impact statement from DPB (SB848)
01/16/17 Senate: Rereferred from Courts of Justice (41-Y 0-N)
01/16/17 Senate: Rereferred to Education and
01/23/17 Senate: Assigned Education sub: Health Professions

SB 880 Genetic counselors; licensing; grandfather clause

Chief patron: Howell

Summary as introduced:

Genetic counselors; licensing; grandfather clause. Extends the deadline from July 1, 2016, to December 31, 2017, by which individuals who have at least 20 years of documented work experience practicing genetic counseling and meet other certain requirements may receive a waiver from the Board of Medicine of the requirements of a master's degree and American Board of Genetic Counseling or American Board of Medical Genetics certification for licensure as a genetic counselor.

01/16/17 Senate: Committee amendment agreed to
01/16/17 Senate: Engrossed by Senate as amended SB880E
01/16/17 Senate: Printed as engrossed 17101024D-E
01/17/17 Senate: Impact statement from VDH (SB880E)
01/17/17 Senate: Read third time and passed Senate (40-Y 0-N)

SB 922 Dept of Professional and Occupational Regulation and Department of Health Professions; licensure.

Chief patron: Petersen

Summary as introduced:

Department of Professional and Occupational Regulation and Department of Health Professions; licensure, certification, registration, and permitting. Provides that certain powers of the Department of Professional and

Occupational Regulation, the Department of Health Professions, and health regulatory boards and certain requirements of persons regulated by such entities apply, inclusively, to permits as well as licenses, certifications, and registrations and to holders of permits as well as holders of such licenses, certifications, and registrations.

- 01/11/17 Senate: Impact statement from DPB (SB922)
- 01/12/17 Senate: Reported from Education and Health (13-Y 0-N)
- 01/13/17 Senate: Constitutional reading dispensed (40-Y 0-N)
- 01/16/17 Senate: Read second time and engrossed
- 01/17/17 Senate: Read third time and passed Senate (40-Y 0-N)

SB 1020 Registration of peer recovery specialists and qualified mental health professionals.

Chief patron: Barker

Summary as introduced:

Registration of peer recovery specialists and qualified mental health professionals. Authorizes the registration of peer recovery specialists and qualified mental health professionals by the Board of Counseling. The bill defines "qualified mental health professional" as a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. The bill requires that a qualified mental health professional provide such services as an employee or independent contractor of a mental health service provider licensed by the Department of Behavioral Health and Developmental Services. The bill defines "registered peer recovery specialist" as a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. The bill requires that a registered peer recovery specialist provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a mental health service provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health. The bill adds qualified mental health professionals and registered peer recovery specialists to the list of mental health providers that are required to take actions to protect third parties under certain circumstances and notify clients of their right to report to the Department of Health Professions any unethical, fraudulent, or unprofessional conduct. The bill directs the Board of Counseling and the Board of Behavioral Health and Developmental Services to promulgate regulations to implement the provisions of the bill within 280 days of its enactment.

- 01/04/17 Senate: Prefiled and ordered printed; offered 01/11/17 17101955D
- 01/04/17 Senate: Referred to Committee on Education and Health
- 01/19/17 Senate: Impact statement from VDH (SB1020)

SB 1024 Doctor of medicine, etc.; reporting disabilities of drivers to DMV, not subject to civil liability.

Chief patron: Dunnivant

Summary as introduced:

Health care practitioners; reporting disabilities of drivers. Provides that any doctor of medicine, osteopathy, chiropractic, or podiatry, any nurse practitioner, or any physician assistant 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 reporting individual believes affects such person's ability to operate a motor vehicle safely is not subject to civil liability unless he has acted in bad faith or with malicious intent.

01/23/17 Senate: Read second time
01/23/17 Senate: Reading of substitute waived
01/23/17 Senate: Committee substitute agreed to 17104028D-S1
01/23/17 Senate: Engrossed by Senate - committee substitute SB1024S1
01/24/17 Senate: Read third time and passed Senate (28-Y 12-N)

SB 1046 Board of Medicine; requirements for licensure.

Chief patron: Stanley

Summary as introduced:

Board of Medicine; requirements for licensure. Removes provisions related to licensure of graduates of an institution not approved by an accrediting agency recognized by the Board of Medicine. Under the bill, only graduates of institutions approved by an accrediting agency recognized by the Board of Medicine are eligible for licensure.

01/16/17 Senate: Impact statement from VDH (SB1046)
01/19/17 Senate: Reported from Education and Health (15-Y 0-N)
01/20/17 Senate: Constitutional reading dispensed (38-Y 0-N)
01/23/17 Senate: Read second time and engrossed
01/24/17 Senate: Read third time and passed Senate (39-Y 0-N)

SB 1062 Definition of mental health service provider.

Chief patron: Deeds

Summary as introduced:

Definition of mental health service provider. Adds physician assistant to the list of mental health service providers who have a duty to take precautions to protect third parties from violent behavior or other serious harm.

01/12/17 Senate: Reported from Education and Health (13-Y 0-N)
01/13/17 Senate: Constitutional reading dispensed (40-Y 0-N)
01/16/17 Senate: Read second time and engrossed
01/17/17 Senate: Impact statement from DPB (SB1062)
01/17/17 Senate: Read third time and passed Senate (40-Y 0-N)

SB 1178 Buprenorphine without naloxone; prescription limitation.

Chief patron: Chafin

Summary as introduced:

Prescription of buprenorphine without naloxone; limitation. Provides that buprenorphine mono or products containing buprenorphine without naloxone shall be issued only for a patient who is pregnant.

01/23/17 Senate: Committee amendment agreed to
01/23/17 Senate: Engrossed by Senate as amended SB1178E
01/23/17 Senate: Printed as engrossed 17101156D-E
01/24/17 Senate: Impact statement from VDH (SB1178E)
01/24/17 Senate: Read third time and passed Senate (39-Y 0-N)

SB 1179 Secretary of Health and Human Resources; workgroup to establish educational guidelines for training.

Chief patron: Chafin

Summary as introduced:

Secretary of Health and Human Resources; workgroup to establish educational guidelines for training health care providers in the safe prescribing and appropriate use of opioids. Requires the Secretary of Health and Human Resources to convene a workgroup that shall include representatives of the Departments of Behavioral Health and Developmental Services, Health, and Health Professions as well as representatives of the State Council of Higher Education for Virginia and each of the Commonwealth's medical schools, dental schools, schools of optometry, schools of pharmacy, physician assistant education programs, and nursing education programs to develop educational standards and curricula for training health care providers, including physicians, dentists, optometrists, pharmacists, physician assistants, and nurses, in the safe and appropriate use of opioids to treat pain while minimizing the risk of addiction and substance abuse. The workgroup shall report its progress and the outcomes of its activities to the Governor and the General Assembly by December 1, 2017.

01/10/17 Senate: Prefiled and offered printed; offered 01/11/17 17101155D

01/10/17 Senate: Referred to Committee of Rules

01/12/17 Senate: Impact statement from SB (SB1179)

SB 1180 Opioids and buprenorphine; Boards of Dentistry and Medicine to adopt regulations for prescribing.

Chief patron: Chafin

Summary as introduced:

Boards of Dentistry and Medicine; regulations for the prescribing of opioids and buprenorphine. Directs the Boards of Dentistry and Medicine to adopt regulations for the prescribing of opioids and products containing buprenorphine. The bill contains an emergency clause.

EMERGENCY

01/23/17 Senate: Amendment by Senator Dunnivant agreed to

01/23/17 Senate: Engrossed by Senate as amended SB1180E

01/23/17 Senate: Printed as engrossed 17101154D-E

01/24/17 Senate: Impact statement from VDH (SB1180E)

01/24/17 Senate: Read third time and passed Senate (39-Y 0-N)

SB 1230 Opiate prescriptions; electronic prescriptions.

Chief patron: Dunnivant

Summary as introduced:

Opiate prescriptions; electronic prescriptions. Requires a prescription for any controlled substance containing an opiate to be issued as an electronic prescription and prohibits a pharmacist from dispensing a controlled substance that contains an opiate unless the prescription is issued as an electronic prescription, beginning July 1, 2020. The bill defines electronic prescription as a written prescription that is generated on an electronic application in accordance with federal regulations and is transmitted to a pharmacy as an electronic data file. The bill requires the Secretary of Health and Human Resources to convene a work group to review actions necessary

for the implementation of the bill's provisions and report on the work group's progress to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2017 and a final report to such Chairmen by November 1, 2018.

01/23/17 Senate: Committee amendment agreed to
01/23/17 Senate: Engrossed by Senate as amended SB1230E
01/23/17 Senate: Printed as engrossed 17101418D-E
01/24/17 Senate: Impact statement from DPB (SB1230E)
01/24/17 Senate: Read third time and passed Senate (39-Y 0-N)

SB 1321 Ophthalmic prescriptions and eye examinations; definitions, requirements, penalty.

Chief patron: Carrico

Summary as introduced:

Requirements for ophthalmic prescriptions; eye examinations; penalty. Defines "eye examination" and "ophthalmic prescription" and sets out requirements for each. The bill prohibits the dispensing of eyeglasses or contact lenses unless the patient provides a valid ophthalmic prescription and prohibits ophthalmologists and optometrists from requiring patients to purchase ophthalmic goods, pay additional fees, or sign a waiver or release in exchange for a copy of an ophthalmic prescription. The bill provides that a violation of its requirements is a Class 2 misdemeanor.

01/10/17 Senate: Prefiled and ordered printed; offered 01/11/17 17101389D
01/10/17 Senate: Referred to Committee on Education and Health
01/16/17 Senate: Assigned Education sub: Health Professions
01/17/17 Senate: Impact statement from VDH (SB1321)
01/23/17 Senate: Assigned Education sub: Health Professions

SB 1327 Doctors; licensure of medical science.

Chief patron: Carrico

Summary as introduced:

Licensure of doctors of medical science. Establishes criteria for license as a doctor of medical science and establishes the Advisory Board on Doctors of Medical Science.

01/10/17 Senate: Prefiled and ordered printed; offered 01/11/17 17102807D
01/10/17 Senate: Referred to Committee on Education and Health
01/24/17 Senate: Impact statement from VDH (SB1327)

17101364D

HOUSE BILL NO. 2095

Offered January 11, 2017

Prefiled January 10, 2017

A BILL to amend and reenact §§ 37.2-203, 37.2-304, 54.1-2400.1, 54.1-2400.6, 54.1-3500, 54.1-3505, and 54.1-3506.1 of the Code of Virginia, relating to registration of peer recovery specialists and qualified mental health professionals.

Patrons—Price, Boysko, Lindsey, Mullin, Plum, Rasoul and Simon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-203, 37.2-304, 54.1-2400.1, 54.1-2400.6, 54.1-3500, 54.1-3505, and 54.1-3506.1 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-203. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;

2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;

5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;

6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;

7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;

8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312; ~~and~~

9. To change the names of state facilities; *and*

10. *To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling.*

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school

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59 divisions for placements in order to ameliorate the impact on those school divisions located in a
60 jurisdiction in which a state hospital or training center is located.

61 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
62 established pursuant to § 51.5-39.13, a written report setting forth the known facts of critical incidents or
63 deaths of individuals receiving services in facilities within 15 working days of the critical incident or
64 death.

65 8. To work with the appropriate state and federal entities to ensure that any individual who has
66 received services in a state facility for more than one year has possession of or receives prior to
67 discharge any of the following documents, when they are needed to obtain the services contained in his
68 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days
69 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a
70 social security card from the Social Security Administration. State facility directors, as part of their
71 responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

72 9. To work with the Department of Veterans Services and the Department for Aging and
73 Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia
74 veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces
75 Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

76 10. To establish and maintain a pharmaceutical and therapeutics committee composed of
77 representatives of the Department of Medical Assistance Services, state facilities operated by the
78 Department, community services boards, at least one health insurance plan, and at least one individual
79 receiving services to develop a drug formulary for use at all community services boards, state facilities
80 operated by the Department, and providers licensed by the Department.

81 11. ~~To certify individuals as peer providers in accordance with regulations adopted by the Board.~~

82 12. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to
83 § 37.2-312.2.

84 ~~13.~~ 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor
85 and the Chairmen of the House Appropriations and Senate Finances Committees that provides
86 information on the operation of Virginia's publicly funded behavioral health and developmental services
87 system. The report shall include a brief narrative and data on the number of individuals receiving state
88 facility services or community services board services, including purchased inpatient psychiatric services;
89 the types and amounts of services received by these individuals; and state facility and community
90 services board service capacities, staffing, revenues, and expenditures. The annual report shall describe
91 major new initiatives implemented during the past year and shall provide information on the
92 accomplishment of systemic outcome and performance measures during the year.

93 Unless specifically authorized by the Governor to accept or undertake activities for compensation, the
94 Commissioner shall devote his entire time to his duties.

95 **§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

96 A. As used in this section:

97 "Certified substance abuse counselor" means a person certified to provide substance abuse counseling
98 in a state-approved public or private substance abuse program or facility.

99 "Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health
100 services or substance abuse services from any mental health service provider.

101 "Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

102 "Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

103 "Licensed practical nurse" means a person licensed to practice practical nursing as defined in
104 § 54.1-3000.

105 "Licensed substance abuse treatment practitioner" means any person licensed to engage in the
106 practice of substance abuse treatment as defined in § 54.1-3500.

107 "Marriage and family therapist" means a person licensed to engage in the practice of marriage and
108 family therapy as defined in § 54.1-3500.

109 "Mental health professional" means a person who by education and experience is professionally
110 qualified and licensed in Virginia to provide counseling interventions designed to facilitate an
111 individual's achievement of human development goals and remediate mental, emotional, or behavioral
112 disorders and associated distresses which interfere with mental health and development.

113 "Mental health service provider" or "provider" refers to any of the following: (i) a person who
114 provides professional services as a certified substance abuse counselor, clinical psychologist, clinical
115 social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and
116 family therapist, mental health professional, physician, professional counselor, psychologist, *qualified*
117 *mental health professional*, registered nurse, *registered peer recovery specialist*, school psychologist, or
118 social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or
119 (iii) a partnership, all of whose partners are so licensed.

120 "Professional counselor" means a person who practices counseling as defined in § 54.1-3500.000015

121 "Psychologist" means a person who practices psychology as defined in § 54.1-3600.
 122 "Qualified mental health professional" means a person who by education and experience is
 123 professionally qualified and registered by the Board of Counseling to provide collaborative mental
 124 health services for adults or children. A qualified mental health professional shall provide such services
 125 as an employee or independent contractor of a mental health service provider licensed by the
 126 Department of Behavioral Health and Developmental Services.

127 "Registered nurse" means a person licensed to practice professional nursing as defined in
 128 § 54.1-3000.

129 "Registered peer recovery specialist" means a person who by education and experience is
 130 professionally qualified and registered by the Board of Counseling to provide collaborative services to
 131 assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both.
 132 A registered peer recovery specialist shall provide such services as an employee or independent
 133 contractor of the Department of Behavioral Health and Developmental Services, a mental health service
 134 provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner
 135 licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed
 136 by the Department of Health.

137 "School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

138 "Social worker" means a person who practices social work as defined in § 54.1-3700.

139 B. A mental health service provider has a duty to take precautions to protect third parties from
 140 violent behavior or other serious harm only when the client has orally, in writing, or via sign language,
 141 communicated to the provider a specific and immediate threat to cause serious bodily injury or death to
 142 an identified or readily identifiable person or persons, if the provider reasonably believes, or should
 143 believe according to the standards of his profession, that the client has the intent and ability to carry out
 144 that threat immediately or imminently. If the third party is a child, in addition to taking precautions to
 145 protect the child from the behaviors in the above types of threats, the provider also has a duty to take
 146 precautions to protect the child if the client threatens to engage in behaviors that would constitute
 147 physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the
 148 threat has been communicated to the provider by the threatening client while the provider is engaged in
 149 his professional duties.

150 C. The duty set forth in subsection B is discharged by a mental health service provider who takes
 151 one or more of the following actions:

152 1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of
 153 Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

154 2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential
 155 victim if the potential victim is under the age of 18.

156 3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or
 157 potential victim's place of residence or place of work, or place of work of the parent or guardian if the
 158 potential victim is under age 18, or both.

159 4. Takes steps reasonably available to the provider to prevent the client from using physical violence
 160 or other means of harm to others until the appropriate law-enforcement agency can be summoned and
 161 takes custody of the client.

162 5. Provides therapy or counseling to the client or patient in the session in which the threat has been
 163 communicated until the mental health service provider reasonably believes that the client no longer has
 164 the intent or the ability to carry out the threat.

165 6. In the case of a registered peer recovery specialist, reports immediately to a licensed mental
 166 health service provider to take one or more of the actions set forth in this subsection.

167 D. A mental health service provider shall not be held civilly liable to any person for:

168 1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the
 169 threats described in subsection B made by his clients to potential third party victims or law-enforcement
 170 agencies or by taking any of the actions specified in subsection C.

171 2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause
 172 the third party serious physical harm.

173 3. Failing to take precautions other than those enumerated in subsection C to protect a potential third
 174 party victim from the client's violent behavior.

175 **§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations,**
 176 **and assisted living facilities required to report disciplinary actions against and certain disorders of**
 177 **health professionals; immunity from liability; failure to report.**

178 A. The chief executive officer and the chief of staff of every hospital or other health care institution
 179 in the Commonwealth, the director of every licensed home health or hospice organization, the director
 180 of every accredited home health organization exempt from licensure, and the administrator of every
 181 licensed assisted living facility, and the administrator of every provider licensed by the Department of

182 *Behavioral Health and Developmental Services* in the Commonwealth shall report within 30 days, except
183 as provided in subsection B, to the Director of the Department of Health Professions, or in the case of a
184 director of a home health or hospice organization, to the Office of Licensure and Certification at the
185 Department of Health (the Office), the following information regarding any person (i) licensed, certified,
186 or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice
187 nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

188 1. Any information of which he may become aware in his official capacity indicating that such a
189 health professional is in need of treatment or has been committed or admitted as a patient, either at his
190 institution or any other health care institution, for treatment of substance abuse or a psychiatric illness
191 that may render the health professional a danger to himself, the public or his patients.

192 2. Any information of which he may become aware in his official capacity indicating, after
193 reasonable investigation and consultation as needed with the appropriate internal boards or committees
194 authorized to impose disciplinary action on a health professional, that there is a reasonable probability
195 that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as
196 defined by the pertinent licensing statutes and regulations. The report required under this subdivision
197 shall be submitted within 30 days of the date that the chief executive officer, chief of staff, director, or
198 administrator determines that a reasonable probability exists.

199 3. Any disciplinary proceeding begun by the institution, organization, ~~or~~ facility, *or provider* as a
200 result of conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to
201 a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v)
202 substance abuse. The report required under this subdivision shall be submitted within 30 days of the
203 date of written communication to the health professional notifying him of the initiation of a disciplinary
204 proceeding.

205 4. Any disciplinary action taken during or at the conclusion of disciplinary proceedings or while
206 under investigation, including but not limited to denial or termination of employment, denial or
207 termination of privileges or restriction of privileges that results from conduct involving (i) intentional or
208 negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics,
209 (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under
210 this subdivision shall be submitted within 30 days of the date of written communication to the health
211 professional notifying him of any disciplinary action.

212 5. The voluntary resignation from the staff of the health care institution, home health or hospice
213 organization, ~~or~~ assisted living facility, *or provider*, or voluntary restriction or expiration of privileges at
214 the institution, organization, ~~or~~ facility, *or provider*, of any health professional while such health
215 professional is under investigation or is the subject of disciplinary proceedings taken or begun by the
216 institution, organization, ~~or~~ facility, *or provider* or a committee thereof for any reason related to possible
217 intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, medical
218 incompetence, unprofessional conduct, moral turpitude, mental or physical impairment, or substance
219 abuse.

220 Any report required by this section shall be in writing directed to the Director of the Department of
221 Health Professions or to the Director of the Office of Licensure and Certification at the Department of
222 Health, shall give the name and address of the person who is the subject of the report and shall fully
223 describe the circumstances surrounding the facts required to be reported. The report shall include the
224 names and contact information of individuals with knowledge about the facts required to be reported and
225 the names and contact information of individuals from whom the hospital or health care institution,
226 organization, ~~or~~ facility, *or provider* sought information to substantiate the facts required to be reported.
227 All relevant medical records shall be attached to the report if patient care or the health professional's
228 health status is at issue. The reporting hospital, health care institution, home health or hospice
229 organization, ~~or~~ assisted living facility, *or provider* shall also provide notice to the Department or the
230 Office that it has submitted a report to the National Practitioner Data Bank under the Health Care
231 Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution,
232 home health or hospice organization, ~~or~~ assisted living facility, *or provider* shall give the health
233 professional who is the subject of the report an opportunity to review the report. The health professional
234 may submit a separate report if he disagrees with the substance of the report.

235 This section shall not be construed to require the hospital, health care institution, home health or
236 hospice organization, ~~or~~ assisted living facility, *or provider* to submit any proceedings, minutes, records,
237 or reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not
238 bar (i) any report required by this section or (ii) any requested medical records that are necessary to
239 investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that
240 should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this
241 section be construed to waive or limit the privilege provided in § 8.01-581.17. No person or entity shall
242 be obligated to report any matter to the Department or the Office if the person or entity has actual
243 notice that the same matter has already been reported to the Department or the Office.

244 B. Any report required by this section concerning the commitment or admission of such health
 245 professional as a patient shall be made within five days of when the chief executive officer, chief of
 246 staff, director, or administrator learns of such commitment or admission.

247 C. The State Health Commissioner ~~or the~~ Commissioner of ~~the Department of~~ Social Services, *and*
 248 *Commissioner of Behavioral Health and Developmental Services* shall report to the Department any
 249 information of which their agencies may become aware in the course of their duties that a health
 250 professional may be guilty of fraudulent, unethical, or unprofessional conduct as defined by the pertinent
 251 licensing statutes and regulations. However, the State Health Commissioner shall not be required to
 252 report information reported to the Director of the Office of Licensure and Certification pursuant to this
 253 section to the Department of Health Professions.

254 D. Any person making a report by this section, providing information pursuant to an investigation or
 255 testifying in a judicial or administrative proceeding as a result of such report shall be immune from any
 256 civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious
 257 intent.

258 E. Medical records or information learned or maintained in connection with an alcohol or drug
 259 prevention function that is conducted, regulated, or directly or indirectly assisted by any department or
 260 agency of the United States shall be exempt from the reporting requirements of this section to the extent
 261 that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.

262 F. Any person who fails to make a report to the Department as required by this section shall be
 263 subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the
 264 assessment of such civil penalty to the Commissioner of Health ~~or the~~ Commissioner of Social Services,
 265 *or Commissioner of Behavioral Health and Developmental Services*, as appropriate. Any person assessed
 266 a civil penalty pursuant to this section shall not receive a license or certification or renewal of such
 267 unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals
 268 and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article
 269 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.

270 **§ 54.1-3500. Definitions.**

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

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

275 "Board" means the Board of Counseling.

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

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

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

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

291 "Marriage and family therapist" means a person trained in the assessment and treatment of cognitive,
 292 affective, or behavioral mental and emotional disorders within the context of marriage and family
 293 systems through the application of therapeutic and family systems theories and techniques.

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

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

301 "Practice of marriage and family therapy" means the assessment and treatment of cognitive, affective,
 302 or behavioral mental and emotional disorders within the context of marriage and family systems through
 303 the application of therapeutic and family systems theories and techniques, which shall include
 304 assessment, treatment, and referral activities.

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

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

311 *"Qualified mental health professional" means a person who by education and experience is*
312 *professionally qualified and registered by the Board to provide collaborative mental health services for*
313 *adults or children. A qualified mental health professional shall provide such services as an employee or*
314 *independent contractor of a mental health service provider, as defined in § 54.1-2400.1, licensed by the*
315 *Department of Behavioral Health and Developmental Services.*

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

318 *"Registered peer recovery specialist" means a person who by education and experience is*
319 *professionally qualified and registered by the Board to provide collaborative services to assist*
320 *individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A*
321 *registered peer recovery specialist shall provide such services as an employee or independent contractor*
322 *of the Department of Behavioral Health and Developmental Services, a mental health service provider,*
323 *as defined in § 54.1-2400.1, licensed by the Department of Behavioral Health and Developmental*
324 *Services, a practitioner licensed by or holding a permit issued from the Department of Health*
325 *Professions, or a facility licensed by the Department of Health.*

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

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

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

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

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

339 **§ 54.1-3505. Specific powers and duties of the Board.**

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

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

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

346 3. To designate specialties within the profession.

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

350 5. [Expired.]

351 6. To promulgate regulations for the qualifications, education, and experience for licensure of
352 marriage and family therapists. The requirements for clinical membership in the American Association
353 for Marriage and Family Therapy (AAMFT), and the professional examination service's national
354 marriage and family therapy examination may be considered by the Board in the promulgation of these
355 regulations. The educational credit hour, clinical experience hour, and clinical supervision hour
356 requirements for marriage and family therapists shall not be less than the educational credit hour,
357 clinical experience hour, and clinical supervision hour requirements for professional counselors.

358 7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter,
359 regulations for the qualifications, education, and experience for licensure of licensed substance abuse
360 treatment practitioners and certification of certified substance abuse counselors and certified substance
361 abuse counseling assistants. The requirements for membership in NAADAC: the Association for
362 Addiction Professionals and its national examination may be considered by the Board in the
363 promulgation of these regulations. The Board also may provide for the consideration and use of the
364 accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia.
365 The educational credit hour, clinical experience hour, and clinical supervision hour requirements for
366 licensed substance abuse treatment practitioners shall not be less than the educational credit hour,

367 clinical experience hour, and clinical supervision hour requirements for licensed professional counselors.
368 Such regulations also shall establish standards and protocols for the clinical supervision of certified
369 substance abuse counselors and the supervision or direction of certified substance abuse counseling
370 assistants, and reasonable access to the persons providing that supervision or direction in settings other
371 than a licensed facility.

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

374 9. *To promulgate regulations for the registration of qualified mental health professionals, including*
375 *qualifications, education, and experience necessary for such registration.*

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

379 **§ 54.1-3506.1. Client notification.**

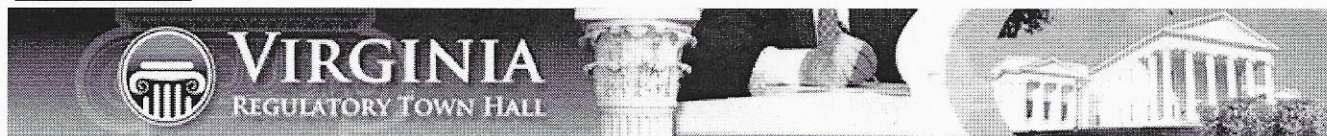
380 Any person licensed, *certified, or registered* by the Board and operating in a nonhospital setting shall
381 post a copy of his license, *certification, or registration* in a conspicuous place. The posting shall also
382 provide clients with (i) the number of the toll-free complaint line at the Department of Health
383 Professions, (ii) the website address of the Department for the purposes of accessing the licensee's,
384 *certificate holder's, or registrant's* record, and (iii) notice of the client's right to report to the Department
385 if he believes the licensee, *certificate holder, or registrant* may have engaged in unethical, fraudulent, or
386 unprofessional conduct. *If the licensee, certificate holder, or registrant does not operate in a central*
387 *location at which clients visit, he shall provide such information on a disclosure form signed by the*
388 *client and maintained in the client's record.*

389 **2. That the Board of Behavioral Health and Developmental Services and the Board of Counseling**
390 **shall promulgate regulations to implement the provisions of this act to be effective within 280 days**
391 **of its enactment.**

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Final Text

Action: increase in hours of CE

Stage: Final

1/24/17 3:00 PM [latest] ▼

18VAC85-150-90

18VAC85-150-90. Reactivation or reinstatement.

A. To reactivate an inactive license or to reinstate a license that has been lapsed for more than two years, a behavior analyst or assistant behavior analyst shall submit evidence of competency to return to active practice to include one of the following:

1. Information on continued practice in another jurisdiction as a licensed behavior analyst or a licensed assistant behavior analyst or with certification as a BCBA[®] or BCaBA[®] during the period in which the license has been inactive or lapsed;

2. ~~Twelve~~ Sixteen hours of continuing education for each year in which the license as a behavior analyst or 10 hours for each year in which the license as an assistant behavior analyst has been inactive or lapsed, not to exceed three years; or

3. Recertification by passage of the BCBA[®] or the BCaBA[®] certification examination from the BACB.

B. To reactivate an inactive license, a behavior analyst or assistant behavior analyst shall pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure.

C. To reinstate a license that has been lapsed for more than two years, a behavior analyst or assistant behavior analyst shall file an application for reinstatement and pay the fee for reinstatement of his license as prescribed in 18VAC85-150-40. The board may specify additional requirements for reinstatement of a license so lapsed to include education, experience, or reexamination.

D. A behavior analyst or assistant behavior analyst whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board, fulfill additional requirements as specified in the order from the board, and make payment of the fee for reinstatement of his licensure as prescribed in 18VAC85-150-40 pursuant to § 54.1-2408.2 of the Code of Virginia.

E. The board reserves the right to deny a request for reactivation or reinstatement to any licensee who has been determined to have committed an act in violation of § 54.1-2915 of the Code of Virginia or any provisions of this chapter.

18VAC85-150-100

18VAC85-150-100. Continuing education requirements.

A. In order to renew an active license, a behavior analyst shall attest to having completed ~~24~~ 32 hours of continuing education and an assistant behavior analyst shall attest to having completed ~~46~~ 20 hours of continuing education as approved and documented by a sponsor recognized by the BACB within the last biennium. Four of the required hours shall be related to ethics in the practice of behavior

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analysis. [Up to two continuing education hours may be satisfied through delivery of behavioral analysis services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for three hours of providing such volunteer services. For the purpose of continuing education credit for voluntary service, the hours shall be approved and documented by the health department or free clinic.]

B. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed form with all supporting documentation for a period of four years following the renewal of an active license.

D. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing education requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption from all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

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Behavior Analyst Certification Board Receives NCCA Accreditation of RBT Credential

For Immediate Release

LITTLETON, Colorado --- January 6, 2016 --- The Behavior Analyst Certification Board (BACB) (<http://www.bacb.com>) has received accreditation of its Registered Behavior Technician (RBT) credential by the National Commission for Certifying Agencies (NCCA).

NCCA is the accreditation body of the Institute for Credentialing Excellence (<http://www.credentialingexcellence.org>) and its accreditation helps demonstrate that a credential has met the rigorous standards established by the credentialing industry. The BACB's Board Certified Behavior Analyst (BCBA) and Board Certified Assistant Behavior Analyst (BCaBA) credentials have been NCCA accredited since 2007.

Speaking about this new achievement, the BACB's CEO James E. Carr, PhD, BCBA-D stated, "The RBT is the first behavior technician credential to become accredited based upon NCCA's current heightened standards, which were enacted in 2016. This development means that the BACB is now the only organization in behavior analysis to offer professional credentials at every educational level (graduate, undergraduate, high school), all of which are accredited by NCCA."

In almost 20 years of operation, the BACB has credentialed over 53,000 individuals worldwide: approximately 28,000 RBTs and 25,000 BCBA and BCaBAs.

The BACB:

The Behavior Analyst Certification Board, Inc. (BACB) is a nonprofit 501(c)(3) corporation established in 1998 to meet professional credentialing needs identified by behavior analysts, governments, and consumers of behavior analysis services.

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