

**THE VIRGINIA BOARD OF SOCIAL WORK
REGULATORY COMMITTEE MEETING MINUTES
Thursday, September 19, 2019**

The Regulatory Committee of the Virginia Board of Social Work ("Board") convened a meeting at 1:00 p.m. on Thursday, September 19, 2019 at the Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia, in Training Room 2.

PRESIDING OFFICER: Joseph Walsh, L.C.S.W., Ph.D., Committee Chair

COMMITTEE MEMBERS PRESENT: Maria Eugenia del Villar, L.C.S.W.
Dolores Paulson, L.C.S.W., Ph.D.
John Salay, L.C.S.W.

COMMITTEE MEMBERS ABSENT: Michael Hayter, L.C.S.W., C.S.A.C.
Gloria Manns, L.C.S.W.

STAFF PRESENT: Latasha Austin, Licensing Manager
Jaime Hoyle, Executive Director
Latonya Campbell, Administrative Assistant

OTHERS PRESENT: Elaine Yeatts, Senior Policy Analyst, DHP

IN THE AUDIENCE: Joseph G. Lynch, L.C.S.W., Virginia Society of Clinical Social Workers (VSCSW), Legislative Vice President

CALL TO ORDER:
Dr. Walsh called the meeting to order at 1:00 p.m.

ROLL CALL/ESTABLISHMENT OF A QUORUM:
Dr. Walsh requested a roll call. Ms. Austin announced that four members of the Committee were present; therefore, a quorum was established.

MISSION STATEMENT:
Dr. Walsh read the mission statement of the Department of Health Professions, which was also the mission statement of the Board.

EMERGENCY EGRESS:
Dr. Walsh announced the Emergency Egress procedures.

ADOPTION OF AGENDA:
Mr. Salay requested to add a discussion regarding Music Therapy and Supervision Hours to the agenda under new business.

Upon a motion by Mr. Salay, which was properly seconded by Dr. Paulson, the agenda was adopted with the additions. The motion passed unanimously with none abstaining.

APPROVAL OF MINUTES:

Upon a motion by Dr. Paulson, which was properly seconded by Ms. del Villar, the meeting minutes from the Regulatory Committee Meeting held on March 14, 2019 were approved as written. The motion passed unanimously with none abstaining.

PUBLIC COMMENT:

Mr. Joseph Lynch provided public comment regarding moral turpitude. (*see attachment 1*)

UNFINISHED BUSINESS:

- **LMSW & Discussion of Need for Supervisee License:** The Committee discussed a Supervisee License/Resident License for Social Work. It was brought to the Board's attention that the Board of Counseling is currently drafting proposed Regulations for a Resident License in Counseling.

There were concerns from some Committee members that requiring a supervisee to have a license could be confusing to the public because it would be difficult to determine if a LMSW was approved to do clinical work. There was also some discussion suggesting having the LMSW as a prerequisite for the LCSW. No final decisions were made.

Next Steps or Suggestions:

- Get more information regarding the process the Board of Counseling followed.
- Find out what issues or problems the Board of Counseling may have encountered during the process they did not foresee.
- How does the resident license affect their overall licensing process?

NEW BUSINESS:

Sub-Committee Recommendations:

Dr. Walsh and Dr. Paulson were tasked by the Committee to review the Code and the Regulations for suggested changes and edits. The sub-committee presented several suggested changes and edits to the Code and the Regulations. The Committee reviewed all the suggested changes and edits provided in the agenda packet line by line brought forth by Dr. Walsh and Dr. Paulson. Some of the suggested changes are as follows:

- **Definitions and Re-ordering**

Dr. Walsh and Dr. Paulson presented several suggested changes to the definitions in the Code and in the Regulations. They also suggested the ordering of the License types in the fee section of the Regulations be consistent, listing the license types from the bachelor's level to the clinical level.

The sub-committee also proposed there be a different application fee and renewal fee for LBSWs and LMSWs. Currently the application fee and renewal fee for a LBSW is the same as a LMSW. After discussion with the Committee whether to propose an increase in fees or decrease in fees, the Committee felt it more reasonable to lower the application and renewal fee for LBSWs and keep the application and renewal fee for LMSW as is. With the LBSW being an entry-level license, the Committee suggested that the application fee for LBSW be reduced from \$115.00 to \$100.00 and the renewal fee for LBSW be reduced from \$65.00 to \$55.00.

Ms. Yeatts informed the Committee that a reduction in fee would be an exempt regulatory action.

- **Moral Turpitude**

The sub-committee also suggested adding a definition for moral turpitude in the Regulations. It was brought to the Committee's attention that several other Boards (Nursing, Funeral, Physical Therapy, Medicine) all have moral turpitude listed in their codes. Moral turpitude language is very common.

The sub-committee suggested the following definition: *“Moral turpitude” means illegal activity outside the context of professional practice that reflects negatively on one’s professional character as determined by the Board.*”

After must discussion, it was suggested that this may be more of a legal matter and would need to be discussed with legal counsel on how moral turpitude should be defined.

Motion: Upon a motion by Dr. Paulson, which was properly seconded by Mr. Salay, the matter would be referred to the Attorney General’s office. The motion passed unanimously with none abstaining.

- **LBSW Experience Requirements:** The Regulatory Committee discussed the supervision requirements for LBSWs in Virginia. Dr. Paulson provided information informing the Committee that 34 states require no supervision following graduation for their LBSWs, 12 states do not have LBSWs, and only 4 states require supervision experience for LBSWs. Virginia is one of the 4 states that require supervision experience for LBSWs. The Committee is recommending that the Board of Social Work eliminate the supervision requirement for LBSWs.

Ms. Yeatts informed the Committee that they are not due for period review until 2021, so the suggested edits and changes would be an ongoing project for the Regulatory Committee, but the elimination of the LBSW experience requirement could be recommended to the Board as a fast track action.

Music Therapy:

Mr. Salay discussed with the Committee how the Board of Health Professions voted to have Music Therapy as a regulated profession and that they voted for it to be regulated by the Board of Counseling. Mr. Salay posed the question to the Committee if QMHPs should be regulated by the Board of Social Work. Mr. Salay also posed the question of how many QMHPs also have a degree in Social Work. Ms. Hoyle informed Mr. Salay that the Board of Counseling has not collected any data of how many QMHPs also have Social Work degrees, so she was unable to provide an answer. Mr. Salay indicated he would propose these questions to the Full Board at its meeting tomorrow.

Expired Supervision:

Mr. Salay discussed with the Committee a recently occurring problem with applicants who have a gap in their supervision from the time when an applicant completes supervision and when they pass the exam. What about person whose supervision expires before they test? Mr. Salay posed the question to the Committee on how the Board should handle persons whose supervision expires before they pass the exam. It was proposed that language be added to approval letters informing applicants that they must remain under approved supervision until they have passed the exam. Mr. Salay indicated he would propose these questions to the Full Board at its meeting tomorrow.

Suggested agenda items for the next meeting

- Discussion on expanding upon the Board’s standards of practice
- Compare code of ethics and boundary violations to see if there are any items the Board wants to address.

NEXT MEETING:

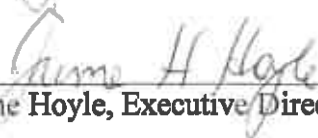
Dr. Walsh announced that the next Regulatory Committee meeting would occur on December 5, 2019 at 1:00pm.

ADJOURNMENT:

Dr. Walsh adjourned the meeting at 4:09 p.m.



Joseph Walsh, L.C.S.W., Ph.D., Committee Chair



Jaime Hoyle, Executive Director



AND



Virginia Society for Clinical Social Work
5537 Solaris Drive
Chesterfield Virginia 23832

PUBLIC COMMENT

Joseph G. Lynch LCSW
VSCSW Legislative Vice President

VIRGINIA BOARD OF SOCIAL WORK
REGULATORY COMMITTEE
SEPTEMBER 19, 2019

Re: "Moral Turpitude"

In the agenda packet for today's meeting in the Sub-committee recommendations for the VBSW Regulations there is a definition of "moral turpitude."

LEGISLATIVE AUTHORITY

The term "moral turpitude" is included only one time in the Social Work Regulations. It is in 18VAC140-20-160. *Grounds for disciplinary action or denial of issuance of a license or registration* (See Appendix A). The sentence is:

1. *Conviction of a felony or of a misdemeanor involving moral turpitude;*

All of the VBSW regulations must emanate from some statutory authority. On the VBSW website are Laws Governing Social Work and Laws Governing All Health Professions. I made a search of the text of all of these Laws looking for the words "moral," "turpitude," or "moral turpitude."

Virginia Society for Clinical Social Work

Joseph G. Lynch LCSW – Legislative Vice President

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There were no matches in the Laws Governing Social Work. In the Laws Governing All Health Professions there was one law (the same law is listed twice) that contained the words “moral turpitude.” (See Appendix B). The law is:

§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations, and assisted living facilities required to report disciplinary actions against and certain disorders of health professionals; immunity from liability; failure to report. (See Appendix C)

There are three paragraphs (#3, 4 and 5) that mention “moral turpitude.” Moral Turpitude is one of five items listed in this law that must be reported to the Director of the Department of Health Professions.

The five items in this statute are:

1. *intentional or negligent conduct that causes or is likely to cause injury to a patient or patients,*
2. *professional ethics,*
3. *professional incompetence,*
4. *moral turpitude, or*
5. *substance abuse.*

In the section of VBSW regulations that contain the phrase “moral turpitude” the paragraph starts out with the phrase “*The board may refuse...*” That language means that the intent of the regulation was to give the VBSW the authority to review and *if they so choose* the Board may refuse to do different things.

VSCSW AND GWSCSW RECOMMENDATIONS:

The only law that governs all health professions that contains the words “moral turpitude” does not contain the words “felony” or “misdemeanor.” The Commonwealth is required to give notice to licensees of any restrictions on the right of every person to engage in any lawful profession. None of the Laws listed on the VBSW website that Govern The Practice of Social Work or Govern all Health Professions contain the phrase “*Conviction of a felony or of a misdemeanor involving moral turpitude.*”

The words “moral turpitude” only appear in § 54.1-2400.6. There is no reason for the VBSW to select only one of the five items listed in § 54.1-2400.6 to place in the VBSW regulations. We recommend that the VBSW not attempt to define “moral turpitude.” Rather we recommend that the VBSW revise the 18VAC140-20-160. *Grounds for disciplinary action or denial of issuance of a license or registration to be:*

1. *Being reported to the Director of the Department of Health Professions under § 54.1-2400.6 (1), (2), (3), (4), or (5).*
2. *Conviction of a felony or misdemeanor.*

I was not able to find a statute to support #2 but on the Application for the LCSW license it ask if the person has a conviction for a felony or misdemeanor so I am going to assume there is a statute to support this being in the regulations.

This revision maintains the option for the VBSW to consider moral turpitude but within the context of all of the items listed in § 54.1-2400.6.

Sincerely,

Joseph G. Lynch LCSW
Legislative Vice President VSCSW

APPENDIX A

Regulations Governing the Practice of Social Work, Virginia Board of Social Work, Title of Regulations: 18 VAC 140-20-10 et seq., Statutory Authority: §§ 54.1-2400 and Chapter 37 of Title 54.1, of the Code of Virginia, Revised Date: September 20, 2018.

18VAC140-20-160. Grounds for disciplinary action or denial of issuance of a license or registration.

The board may refuse to admit an applicant to an examination; refuse to issue a license or registration to an applicant; or reprimand, impose a monetary penalty, place on probation, impose such terms as it may designate, suspend for a stated period of time or indefinitely, or revoke a license or registration for one or more of the following grounds:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;
2. Procurement of license by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of continuing education.
4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;
5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of 18VAC140-20-150, standards of practice;
6. Performing functions outside the board-licensed area of competency;
7. Failure to comply with the continued competency requirements set forth in 18VAC140-20-105; and

8. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of this chapter; and

9. Failure to provide supervision in accordance with the provisions of 18VAC140-20-50 or 18VAC140-20-60.

APPENDIX B

LAWS GOVERNING SOCIAL WORK						
1	Chapter 37 of Title 54.1 of the Code of Virginia, Social Work	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
LAWS GOVERNING ALL HEALTH PROFESSIONS						
1	Chapter 40. Administrative Process Act	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	Chapter 25 of Title 54.1 of the Code of Virginia, Department of Health Professions	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3	Drug Law for Practitioners	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4	Freedom of Information Act	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5	General Provisions	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		
6	Health Practitioners' Monitoring Program	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7	Prescription Monitoring Program	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8	Patient Health Records Privacy	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9	Practitioner Self-Referral Act	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Regulation of Professions and Occupations	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
11	Release of Records of a Minor Child	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
12	Reporting Requirements for Hospitals and Other Health Care Institutions	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13	Health Care Decisions Act	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
14	Law on Extension of Licenses for Active Duty Military	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
15	Legal Requirements to Report Child Abuse and Adult Abuse	Moral Turpitude		Misdemeanor		Felony
		YES	NO	YES	NO	YES
			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

The law in “General Provisions” and the law in “Reporting Requirements for Hospitals and Other Health Care Institutions” is the same law- § 54.1-2400.6.

APPENDIX B - DATA
DOES THE LAW CONTAIN THE WORDS MORAL TURPITUDE, FELONY OR MISDEMEANOR

1	<u>The Administrative Process Act</u>	Moral turpitude Felony Misdemeanor	None None None
2	Chapter 25 of Title 54.1 of the Code of Virginia, Department of Health Professions	Moral turpitude Felony Misdemeanor	None None None
3	Drug Laws for Practitioners	Moral turpitude Felony	None The word felony appears 26 times in the following selected laws: Selected Sections from Chapter 33. Pharmacy Selected Laws from Chapter 29. Medicine CHAPTER 25.2 Prescription Monitoring Program Selected Sections from Chapter 34. Drug Control Act
4	Freedom of Information Act- § 2.2-3700 to § 2.2-3714	Misdemeanor Moral turpitude Felony Misdemeanor	The word misdemeanor appears 29 times in the following selected laws: Selected Sections from Chapter 33. Pharmacy Selected Laws from Chapter 29. Medicine CHAPTER 25.2 Prescription Monitoring Program Selected Sections from Chapter 34. Drug Control Act None The word felony appears 3 times- none concerning licensing None
5	Chapter 24 of Title 54.1 of the Code of Virginia General Provisions	Moral turpitude Felony	The word moral turpitude appears 3 times § 54.1-2400.6. § 54.1-2409. Mandatory suspension or revocation; reinstatement; hearing for reinstatement.

A. Upon receipt of documentation by any court or government agency that a person licensed, certified, or registered by a board within the Department of Health Professions has had his license, certificate, or registration to practice the same profession or occupation revoked or suspended for reasons other than nonrenewal or accepted for surrender in lieu of disciplinary action in another jurisdiction and has not had his license, certificate, or registration to so practice reinstated within that jurisdiction, or has been convicted of a felony or has been adjudged incapacitated, the Director of the Department shall immediately suspend, without a hearing, the license, certificate, or registration of any person so disciplined, convicted or adjudged. The Director shall notify such person or his legal guardian, conservator, trustee, committee, or other representative of the suspension in writing to his address on record with the Department. Such notice shall include a copy of the documentation from such court or agency, certified by the Director as the documentation received from such court or agency. Such person shall not have the right to practice within this Commonwealth until his license, certificate, or registration has been reinstated by the Board.

B. The clerk of any court in which a conviction of a felony or an adjudication of incapacity is made, who has knowledge that a person licensed, certified, or registered by a board within the Department has been convicted or found incapacitated, shall have a duty to report these findings promptly to the Director.

§ 54.1-2409.1. Criminal penalties for practicing certain professions and occupations without appropriate license.

Any person who, without holding a current valid license, certificate, registration, permit, or multistate licensure privilege issued by a regulatory board pursuant to this title (i) performs an invasive procedure for which a license or multistate licensure privilege is required; (ii) administers, prescribes, sells, distributes, or dispenses a controlled drug; or (iii) practices a profession or occupation after having his license, certificate, registration, permit, or multistate licensure privilege to do so suspended or revoked shall be guilty of a Class 6 felony.

		1994, c. 722; 2004, c. 49; 2017, c. 423.
	Misdemeanor	<p>§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty.</p> <p>A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:</p> <p>J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.</p>
6	Moral turpitude	None
	Felony	None
7	Misdemeanor	None
	Moral turpitude	None
	Felony	None
	Misdemeanor	<p>§ 54.1-2525. Unlawful disclosure of information; disciplinary action authorized; penalties.</p> <p>A. It shall be unlawful for any person having access to the confidential information in the possession of the program or any data or reports produced by the program to disclose such confidential information except as provided in this chapter. Any person having access to the confidential information in the possession of the program or any data or reports produced by the program who discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.</p> <p>B. It shall be unlawful for any person who lawfully receives confidential information from the Prescription Monitoring Program to redisclose or use such confidential</p>

			information in any way other than the authorized purpose for which the request was made. Any person who lawfully receives information from the Prescription Monitoring Program and discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.
8	Law on Patient Health Records/Privacy	Moral turpitude Felony Misdemeanor	None None None
9	Chapter 24.1 of Title 54.1 of the Code of Virginia Practitioner Self-Referral Act	Moral turpitude Felony Misdemeanor	None None None
10	Regulations of professions and occupations Chapter 1 of Title 54.1 of the Code of Virginia General Provision.	Moral turpitude Felony Misdemeanor	None 1 time see below § 54.1-102. Unlawful procurement of certificate, license or permit; unauthorized possession of examination or answers; penalty. A. It shall be unlawful: 1. For any person to procure, or assist another to procure, through theft, fraud or other illegal means, a certificate, license or permit, from any state board, or other body charged by law with the responsibility of examining persons desiring to engage in a regulated business or profession; 2. For any person, other than a member or officer of the board or body, to procure or have in his possession prior to the beginning of an examination, without written authority of a member or officer of the board or body, any question intended to be used by the board or body conducting the examination, or to receive or furnish to any person taking the examination, prior to or during the examination, any written or printed material purporting to be answers to, or aid in answering such questions;

3. For any person to attempt to procure, through theft, fraud or other illegal means, any questions intended to be used by the board or body conducting the examination, or the answers to the questions;

4. For any person to use, disclose or release any questions intended to be used by the board or body conducting the examination, or to release the answers to the questions, beyond the scope specifically authorized by the board or body; or

5. To promise or offer any valuable or other consideration to a person having access to the questions or answers as an inducement to procure for delivery to the promisor, or any other person, a copy or copies of any questions or answers.

If an examination is divided into separate parts, each of the parts shall be deemed an examination for the purposes of this section.

B. Any person violating the provisions of subsection A shall be guilty of a Class 2 misdemeanor.

§ 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty.

A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.

2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

3. Making use of any titles, words, letters or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

		<p>4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.</p> <p>5. Failing to register as a practitioner of a profession or occupation as required by statute or regulation.</p> <p>6. Materially misrepresenting facts in an application for licensure, certification or registration.</p> <p>7. Willfully refusing to furnish a regulatory board information or records required or requested pursuant to statute or regulation.</p> <p>8. Violating any statute or regulation governing the practice of any profession or occupation regulated pursuant to this title.</p> <p>9. Refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice.</p> <p>Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a 36-month period shall constitute a Class 6 felony. In addition, any person convicted of any unlawful act enumerated in subdivision 1 through 8 of this subsection, for conduct that is within the purview of any regulatory board within the Department of Professional and Occupational Regulation, may be ordered by the court to pay restitution in accordance with §§ 19.2-305 through 19.2-305.4.</p>
11	Release of records of minor child to custodial or non-custodial parent	<p>Moral turpitude Felony Misdemeanor</p> <p>None None None</p>
12	Reporting Requirements for Hospitals, other health care	<p>§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations, and assisted living facilities required to report disciplinary actions</p>

institutions, home health and hospice organizations, and assisted living facilities

against and certain disorders of health professionals; immunity from liability; failure to report.

A. The chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth shall report within 30 days, except as provided in subsection B, to the Director of the Department of Health Professions, or in the case of a director of a home health or hospice organization, to the Office of Licensure and Certification at the Department of Health (the Office), the following information regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

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

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

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

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

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

Any report required by this section shall be in writing directed to the Director of the Department of Health Professions or to the Director of the Office of Licensure and Certification at the Department of Health, 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 individuals from whom the hospital or health care institution, organization, facility, or provider sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider shall also provide notice to the Department or the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider 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.

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

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

	<p>C. The State Health Commissioner, Commissioner of Social Services, and Commissioner of Behavioral Health and Developmental Services shall report to the Department any information of which their agencies may become aware in the course of their duties that a health professional may be guilty of fraudulent, unethical, or unprofessional conduct as defined by the pertinent licensing statutes and regulations. However, the State Health Commissioner shall not be required to report information reported to the Director of the Office of Licensure and Certification pursuant to this section to the Department of Health Professions.</p> <p>D. Any person making a report 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 alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.</p> <p>E. Medical records or information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be exempt from the reporting requirements of this section to the extent that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.</p> <p>F. Any person who fails to make a report to the Department as required by this section shall be subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the assessment of such civil penalty to the Commissioner of Health, Commissioner of Social Services, or Commissioner of Behavioral Health and Developmental Services, as appropriate. Any person assessed a civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.</p>
	<p>Felony None</p> <p>Misdemeanor None</p>

<p>13</p> <p>"Health Care Decisions Act" Code of Virginia Article 8. Health Care Decisions Act.</p>	<p>Moral turpitude Felony Misdemeanor</p> <p>None 2 times see below § 54.1-2989. Willful destruction, concealment, etc., of declaration or revocation; penalties.</p> <p>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.</p> <p>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.</p>
<p>14</p>	<p>Moral turpitude Felony</p> <p>None None</p>

	<p>Law on Extension of Licenses for Persons in Diplomatic Service and the Armed Service</p>	<p>Misdemeanor</p>	<p>None</p>
<p>15</p>	<p>Legal Requirements to Report Child Abuse and Adult Abuse</p>	<p>Moral turpitude Felony Misdemeanor</p>	<p>None None</p> <p>§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.</p> <p>D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.</p> <p>§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.</p> <p>G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false shall be guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision shall be a Class 2 misdemeanor.</p>

APPENDIX C

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

A. The chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth shall report within 30 days, except as provided in subsection B, to the Director of the Department of Health Professions, or in the case of a director of a home health or hospice organization, to the Office of Licensure and Certification at the Department of Health (the Office), the following information regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

1 and 2 do not say "moral turpitude" but require reporting to the DHP Director so should be included in revised VBSW regulations

1. Any information of which he may become aware in his official capacity indicating that such a health professional is in need of treatment or has been committed or admitted as a patient, either at his institution or any other health care institution, for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public or his patients.
2. Any information of which he may become aware in his official capacity indicating, after reasonable investigation and consultation as needed with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, that there is a reasonable probability that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations. The report required under this subdivision shall be submitted within 30 days of the date that the chief executive officer, chief of staff, director, or administrator determines that a reasonable probability exists.

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

Moral turpitude

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

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

Any report required by this section shall be in writing directed to the Director of the Department of Health Professions or to the Director of the Office of Licensure and Certification at the Department of Health, 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 individuals from whom the hospital or health care institution, organization, facility, or provider sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider shall also provide notice to the Department or the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution, home health or hospice organization, assisted living facility, or provider 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.

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

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

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

D. Any person making a report 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 alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

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

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

Code 1950, § 32-137.1; 1977, c. 639; 1978, c. 541, § 54-325.1; 1979, cc. 720, 727; 1986, cc. 303, 434; 1988, c. 765, § 54.1-2906; 1994, c. 234; 2000, c. 77; 2003, cc. 456, 753, 762; 2004, cc. 49, 64; 2011, c. 463; 2015, c. 119; 2017, cc. 418, 426.