

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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*An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, 54.1-3000, 54.1-3001, 54.1-3005, 54.1-3005.1, 54.1-3008, 54.1-3029, and 54.1-3029.1 of the Code of Virginia, relating to licensure of massage therapists.*

[H 562]

Approved

**Be it enacted by the General Assembly of Virginia:**  
**1. That §§ 4.1-100, as it is currently effective and as it shall become effective; 54.1-3000, 54.1-3001, 54.1-3005, 54.1-3005.1, 54.1-3008, 54.1-3029, and 54.1-3029.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)

57 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided  
58 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being  
59 conducted while such gaming is being conducted and that no alcoholic beverages are made available  
60 upon the premises to any person who is neither a member nor a bona fide guest of a member.

61 Any such corporation or association which has been declared exempt from federal and state income  
62 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a  
63 nonprofit corporation or association.

64 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding  
65 alcoholic beverages.

66 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains  
67 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,  
68 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with  
69 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility  
70 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied  
71 the grapes, fruits, or other agricultural products used in the production of the wine. The contract  
72 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have  
73 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm  
74 winery for its services.

75 "Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent  
76 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items  
77 intended for human consumption consisting of a variety of such items of the types normally sold in  
78 grocery stores.

79 "Day spa" means any commercial establishment that offers to the public both massage therapy,  
80 performed by persons ~~certified~~ licensed in accordance with § 54.1-3029, and barbering or cosmetology  
81 services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

82 "Designated area" means a room or area approved by the Board for on-premises licensees.

83 "Dining area" means a public room or area in which meals are regularly served.

84 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully  
85 manufactured, sold, or used.

86 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing  
87 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the  
88 premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol  
89 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing  
90 area or agreements for purchasing grapes or other fruits from agricultural growers within the  
91 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or  
92 lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery"  
93 includes an accredited public or private institution of higher education provided that (a) no wine  
94 manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used  
95 solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored  
96 on the premises of such farm winery that shall be separate and apart from all other facilities of the  
97 institution, and (d) such farm winery is operated in strict conformance with the requirements of this  
98 sentence and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include  
99 a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the  
100 event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes  
101 all of the land owned or leased by the individual members of the cooperative as long as such land is  
102 located in the Commonwealth.

103 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty  
104 items relating to history, original and handmade arts and products, collectibles, crafts, and floral  
105 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure  
106 where stock is displayed and offered for sale and which has facilities to properly secure any stock of  
107 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered  
108 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall  
109 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be  
110 considered a gift shop.

111 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may  
112 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such  
113 persons facilities for manufacturing, fermenting and bottling such wine or beer.

114 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage  
115 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and  
116 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually  
117 furnished to persons.

- 118 "Government store" means a store established by the Board for the sale of alcoholic beverages.
- 119 "Hotel" means any duly licensed establishment, provided with special space and accommodation,  
120 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has  
121 four or more bedrooms. It shall also mean the person who operates such hotel.
- 122 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order  
123 pursuant to this title.
- 124 "Internet wine retailer" means a person who owns or operates an establishment with adequate  
125 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone  
126 orders are taken and shipped directly to consumers and which establishment is not a retail store open to  
127 the public.
- 128 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to  
129 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.
- 130 "Licensed" means the holding of a valid license issued by the Board.
- 131 "Licensee" means any person to whom a license has been granted by the Board.
- 132 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol  
133 content of 25 percent by volume.
- 134 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol  
135 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits  
136 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit  
137 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by  
138 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of  
139 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved  
140 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be  
141 sold for on-premises consumption other than by mixed beverage licensees.
- 142 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for  
143 off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen  
144 facilities located at the establishment.
- 145 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona  
146 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments  
147 specializing in full course meals with a single substantial entree.
- 148 "Member of a club" means (i) a person who maintains his membership in the club by the payment of  
149 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)  
150 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal  
151 descendants of a bona fide member, whether alive or deceased, of a national or international  
152 organization to which an individual lodge holding a club license is an authorized member in the same  
153 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the  
154 annual dues of resident members of the club, the full amount of such contribution being paid in advance  
155 in a lump sum.
- 156 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of  
157 spirits.
- 158 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,  
159 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives  
160 which are not commonly consumed unless combined with alcoholic beverages, whether or not such  
161 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a  
162 Virginia corporation.
- 163 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
164 designated in the application for a license as the place at which the manufacture, bottling, distribution,  
165 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other  
166 improvement actually and exclusively used as a private residence.
- 167 "Public place" means any place, building, or conveyance to which the public has, or is permitted to  
168 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,  
169 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any  
170 highway, street, or lane.
- 171 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private  
172 meetings or private parties limited in attendance to members and guests of a particular group,  
173 association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or  
174 similar facilities while such restaurant is closed to the public and in use for private meetings or parties  
175 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such  
176 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in  
177 use for private meetings or parties limited in attendance to employees and nonpaying guests of the  
178 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats

179 which are not licensed by the Board and on which alcoholic beverages are not sold.

180 "Residence" means any building or part of a building or structure where a person resides, but does  
181 not include any part of a building which is not actually and exclusively used as a private residence, nor  
182 any part of a hotel or club other than a private guest room thereof.

183 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities  
184 located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation  
185 with voluntary membership which, as its primary function, makes available golf, ski and other  
186 recreational facilities both to its members and the general public. The hotel or corporation shall have a  
187 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board  
188 may consider the purpose, characteristics, and operation of the applicant establishment in determining  
189 whether it shall be considered as a resort complex. All other pertinent qualifications established by the  
190 Board for a hotel operation shall be observed by such licensee.

191 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant  
192 license, any establishment provided with special space and accommodation, where, in consideration of  
193 payment, meals or other foods prepared on the premises are regularly sold.

194 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant  
195 license, an established place of business (i) where meals with substantial entrees are regularly sold and  
196 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such  
197 meals for consumption at tables in dining areas on the premises, and includes establishments specializing  
198 in full course meals with a single substantial entree.

199 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;  
200 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic  
201 beverages.

202 "Sangria" means a drink consisting of red or white wine mixed with some combination of  
203 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other  
204 similar spirits.

205 "Special agent" means an employee of the Department of Alcoholic Beverage Control whom the  
206 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

207 "Special event" means an event sponsored by a duly organized nonprofit corporation or association  
208 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

209 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable  
210 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and  
211 gin, or any one or more of the last four named ingredients; but shall not include any such liquors  
212 completely denatured in accordance with formulas approved by the United States government.

213 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of  
214 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or  
215 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product  
216 of distillation. The term includes any wine to which wine spirits have been added, as provided in the  
217 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an  
218 alcohol content of 21 percent by volume.

219 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and  
220 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of  
221 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain  
222 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar  
223 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice  
224 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

225 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for  
226 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio  
227 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by  
228 such retail licensee.

229 **§ 4.1-100. (Effective July 1, 2018) Definitions.**

230 As used in this title unless the context requires a different meaning:

231 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any  
232 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic  
233 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with  
234 formulas approved by the government of the United States.

235 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic  
236 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption  
237 by inhalation.

238 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties  
239 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,

240 and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer  
 241 and capable of being consumed by a human being. Any liquid or solid containing more than one of the  
 242 four varieties shall be considered as belonging to that variety which has the higher percentage of  
 243 alcohol, however obtained, according to the order in which they are set forth in this definition; except  
 244 that beer may be manufactured to include flavoring materials and other nonbeverage ingredients  
 245 containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished  
 246 product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for  
 247 products with an alcohol content of no more than six percent by volume; or, in the case of products  
 248 with an alcohol content of more than six percent by volume, as long as no more than one and one-half  
 249 percent of the volume of the finished product consists of alcohol derived from added flavors and other  
 250 nonbeverage ingredients containing alcohol.

251 "Art instruction studio" means any commercial establishment that provides to its customers all  
 252 required supplies and step-by-step instruction in creating a painting or other work of art during a studio  
 253 instructional session.

254 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which  
 255 works of art are sold or displayed.

256 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

257 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

258 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;  
 259 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)  
 260 offering at least one meal per day, which may but need not be breakfast, to each person to whom  
 261 overnight lodging is provided.

262 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of  
 263 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one  
 264 percent or more of alcohol by volume.

265 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

266 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43  
 267 ounces.

268 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for  
 269 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33  
 270 U.S.C. § 59ii.

271 "Club" means any private nonprofit corporation or association which is the owner, lessee, or  
 272 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other  
 273 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also  
 274 means the establishment so operated. A corporation or association shall not lose its status as a club  
 275 because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)  
 276 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided  
 277 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being  
 278 conducted while such gaming is being conducted and that no alcoholic beverages are made available  
 279 upon the premises to any person who is neither a member nor a bona fide guest of a member.

280 Any such corporation or association which has been declared exempt from federal and state income  
 281 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a  
 282 nonprofit corporation or association.

283 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding  
 284 alcoholic beverages.

285 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains  
 286 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,  
 287 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with  
 288 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility  
 289 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied  
 290 the grapes, fruits, or other agricultural products used in the production of the wine. The contract  
 291 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have  
 292 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm  
 293 winery for its services.

294 "Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent  
 295 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items  
 296 intended for human consumption consisting of a variety of such items of the types normally sold in  
 297 grocery stores.

298 "Day spa" means any commercial establishment that offers to the public both massage therapy,  
 299 performed by persons ~~certified~~ licensed in accordance with § 54.1-3029, and barbering or cosmetology  
 300 services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

301 "Designated area" means a room or area approved by the Board for on-premises licensees.

302 "Dining area" means a public room or area in which meals are regularly served.

303 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully  
304 manufactured, sold, or used.

305 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing  
306 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the  
307 premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol  
308 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing  
309 area or agreements for purchasing grapes or other fruits from agricultural growers within the  
310 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or  
311 lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery"  
312 includes an accredited public or private institution of higher education provided that (a) no wine  
313 manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used  
314 solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored  
315 on the premises of such farm winery that shall be separate and apart from all other facilities of the  
316 institution, and (d) such farm winery is operated in strict conformance with the requirements of this  
317 sentence and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include  
318 a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the  
319 event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes  
320 all of the land owned or leased by the individual members of the cooperative as long as such land is  
321 located in the Commonwealth.

322 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty  
323 items relating to history, original and handmade arts and products, collectibles, crafts, and floral  
324 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure  
325 where stock is displayed and offered for sale and which has facilities to properly secure any stock of  
326 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered  
327 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall  
328 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be  
329 considered a gift shop.

330 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may  
331 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such  
332 persons facilities for manufacturing, fermenting and bottling such wine or beer.

333 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage  
334 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and  
335 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually  
336 furnished to persons.

337 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

338 "Hotel" means any duly licensed establishment, provided with special space and accommodation,  
339 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has  
340 four or more bedrooms. It shall also mean the person who operates such hotel.

341 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order  
342 pursuant to this title.

343 "Internet wine retailer" means a person who owns or operates an establishment with adequate  
344 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone  
345 orders are taken and shipped directly to consumers and which establishment is not a retail store open to  
346 the public.

347 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to  
348 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

349 "Licensed" means the holding of a valid license granted by the Authority.

350 "Licensee" means any person to whom a license has been granted by the Authority.

351 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol  
352 content of 25 percent by volume.

353 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol  
354 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits  
355 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit  
356 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by  
357 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of  
358 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved  
359 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be  
360 sold for on-premises consumption other than by mixed beverage licensees.

361 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for

362 off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen  
363 facilities located at the establishment.

364 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona  
365 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments  
366 specializing in full course meals with a single substantial entree.

367 "Member of a club" means (i) a person who maintains his membership in the club by the payment of  
368 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)  
369 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal  
370 descendants of a bona fide member, whether alive or deceased, of a national or international  
371 organization to which an individual lodge holding a club license is an authorized member in the same  
372 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the  
373 annual dues of resident members of the club, the full amount of such contribution being paid in advance  
374 in a lump sum.

375 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of  
376 spirits.

377 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,  
378 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives  
379 which are not commonly consumed unless combined with alcoholic beverages, whether or not such  
380 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a  
381 Virginia corporation.

382 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
383 designated in the application for a license as the place at which the manufacture, bottling, distribution,  
384 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other  
385 improvement actually and exclusively used as a private residence.

386 "Principal stockholder" means any person who individually or in concert with his spouse and  
387 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of  
388 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse  
389 and immediate family members has the power to vote or cause the vote of five percent or more of any  
390 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the  
391 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial  
392 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

393 "Public place" means any place, building, or conveyance to which the public has, or is permitted to  
394 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,  
395 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any  
396 highway, street, or lane.

397 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private  
398 meetings or private parties limited in attendance to members and guests of a particular group,  
399 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or  
400 similar facilities while such restaurant is closed to the public and in use for private meetings or parties  
401 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such  
402 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in  
403 use for private meetings or parties limited in attendance to employees and nonpaying guests of the  
404 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats  
405 which are not licensed by the Board and on which alcoholic beverages are not sold.

406 "Residence" means any building or part of a building or structure where a person resides, but does  
407 not include any part of a building which is not actually and exclusively used as a private residence, nor  
408 any part of a hotel or club other than a private guest room thereof.

409 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities  
410 located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation  
411 with voluntary membership which, as its primary function, makes available golf, ski and other  
412 recreational facilities both to its members and the general public. The hotel or corporation shall have a  
413 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The  
414 Authority may consider the purpose, characteristics, and operation of the applicant establishment in  
415 determining whether it shall be considered as a resort complex. All other pertinent qualifications  
416 established by the Board for a hotel operation shall be observed by such licensee.

417 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant  
418 license, any establishment provided with special space and accommodation, where, in consideration of  
419 payment, meals or other foods prepared on the premises are regularly sold.

420 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant  
421 license, an established place of business (i) where meals with substantial entrees are regularly sold and  
422 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such

423 meals for consumption at tables in dining areas on the premises, and includes establishments specializing  
424 in full course meals with a single substantial entree.

425 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;  
426 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic  
427 beverages.

428 "Sangria" means a drink consisting of red or white wine mixed with some combination of  
429 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other  
430 similar spirits.

431 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the  
432 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

433 "Special event" means an event sponsored by a duly organized nonprofit corporation or association  
434 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

435 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable  
436 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and  
437 gin, or any one or more of the last four named ingredients; but shall not include any such liquors  
438 completely denatured in accordance with formulas approved by the United States government.

439 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of  
440 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or  
441 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product  
442 of distillation. The term includes any wine to which wine spirits have been added, as provided in the  
443 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an  
444 alcohol content of 21 percent by volume.

445 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and  
446 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of  
447 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain  
448 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar  
449 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice  
450 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

451 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for  
452 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio  
453 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by  
454 such retail licensee.

455 **§ 54.1-3000. Definitions.**

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

457 "Board" means the Board of Nursing.

458 "Certified nurse aide" means a person who meets the qualifications specified in this article and who  
459 is currently certified by the Board.

460 "Clinical nurse specialist" means a person who is registered by the Board in addition to holding a  
461 license under the provisions of this chapter to practice professional nursing as defined in this section.  
462 Such a person shall be recognized as being able to provide advanced services according to the  
463 specialized training received from a program approved by the Board, but shall not be entitled to perform  
464 any act that is not within the scope of practice of professional nursing.

465 "~~Certified~~ ~~massage~~ *Massage* therapist" means a person who meets the qualifications specified in this  
466 chapter and who is currently ~~certified~~ *licensed* by the Board.

467 "Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of  
468 massage and bodywork techniques based on the manipulation or application of pressure to the muscular  
469 structure or soft tissues of the human body. The ~~terms term~~ *term* "massage therapy" and "~~therapeutic~~  
470 ~~massage~~" ~~do~~ *does* not include the diagnosis or treatment of illness or disease or any service or procedure  
471 for which a license to practice medicine, nursing, *midwifery*, chiropractic ~~therapy~~, physical therapy,  
472 occupational therapy, acupuncture, *athletic training*, or podiatry is required by law *or any service*  
473 *described in § 54.1-3001(18)*.

474 "*Massage therapy*" shall not include manipulation of the spine or joints.

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

477 "Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate  
478 licensure privilege under the provisions of this chapter to practice practical nursing as defined in this  
479 section. Such a licensee shall be empowered to provide nursing services without compensation. The  
480 abbreviation "L.P.N." shall stand for such terms.

481 "Practical nursing" or "licensed practical nursing" means the performance for compensation of  
482 selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in  
483 normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject



484 to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse  
 485 aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing  
 486 procedures gained through prescribed education. Practical nursing or licensed practical nursing is  
 487 performed under the direction or supervision of a licensed medical practitioner, a professional nurse,  
 488 registered nurse or registered professional nurse or other licensed health professional authorized by  
 489 regulations of the Board.

490 "Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the  
 491 education, training, and skills specified in this chapter for certification as a nurse aide. Such services are  
 492 performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical  
 493 nurse, or other licensed health care professional acting within the scope of the requirements of his  
 494 profession.

495 "Professional nurse," "registered nurse" or "registered professional nurse" means a person who is  
 496 licensed or holds a multistate licensure privilege under the provisions of this chapter to practice  
 497 professional nursing as defined in this section. Such a licensee shall be empowered to provide  
 498 professional services without compensation, to promote health and to teach health to individuals and  
 499 groups. The abbreviation "R.N." shall stand for such terms.

500 "Professional nursing," "registered nursing" or "registered professional nursing" means the  
 501 performance for compensation of any nursing acts in the observation, care and counsel of individuals or  
 502 groups who are ill, injured or experiencing changes in normal health processes or the maintenance of  
 503 health; in the prevention of illness or disease; in the supervision and teaching of those who are or will  
 504 be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately  
 505 trained unlicensed persons as determined by the Board; or in the administration of medications and  
 506 treatments as prescribed by any person authorized by law to prescribe such medications and treatment.  
 507 Professional nursing, registered nursing and registered professional nursing require specialized education,  
 508 judgment, and skill based upon knowledge and application of principles from the biological, physical,  
 509 social, behavioral and nursing sciences.

510 **§ 54.1-3001. Exemptions.**

511 This chapter shall not apply to the following:

512 1. The furnishing of nursing assistance in an emergency;  
 513 2. The practice of nursing, which is prescribed as part of a study program, by nursing students  
 514 enrolled in nursing education programs approved by the Board or by graduates of approved nursing  
 515 education programs for a period not to exceed ninety days following successful completion of the  
 516 nursing education program pending the results of the licensing examination, provided proper application  
 517 and fee for licensure have been submitted to the Board and unless the graduate fails the licensing  
 518 examination within the 90-day period;

519 3. The practice of any legally qualified nurse of another state who is employed by the United States  
 520 government while in the discharge of his official duties;

521 4. The practice of nursing by a nurse who holds a current unrestricted license in another state, the  
 522 District of Columbia, a United States possession or territory, or who holds a current unrestricted license  
 523 in Canada and whose training was obtained in a nursing school in Canada where English was the  
 524 primary language, for a period of 30 days pending licensure in Virginia, if the nurse, upon employment,  
 525 has furnished the employer satisfactory evidence of current licensure and submits proper application and  
 526 fees to the Board for licensure before, or within 10 days after, employment. At the discretion of the  
 527 Board, additional time may be allowed for nurses currently licensed in another state, the District of  
 528 Columbia, a United States possession or territory, or Canada who are in the process of attaining the  
 529 qualification for licensure in this Commonwealth;

530 5. The practice of nursing by any registered nurse who holds a current unrestricted license in another  
 531 state, the District of Columbia, or a United States possession or territory, or a nurse who holds an  
 532 equivalent credential in a foreign country, while enrolled in an advanced professional nursing program  
 533 requiring clinical practice. This exemption extends only to clinical practice required by the curriculum;

534 6. The practice of nursing by any nurse who holds a current unrestricted license in another state, the  
 535 District of Columbia, or a United States possession or territory and is employed to provide care to any  
 536 private individual while such private individual is traveling through or temporarily staying, as defined in  
 537 the Board's regulations, in the Commonwealth;

538 7. General care of the sick by nursing assistants, companions or domestic servants that does not  
 539 constitute the practice of nursing as defined in this chapter;

540 8. The care of the sick when done solely in connection with the practice of religious beliefs by the  
 541 adherents and which is not held out to the public to be licensed practical or professional nursing;

542 9. Any employee of a school board, authorized by a prescriber and trained in the administration of  
 543 insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents  
 544 as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a

545 student diagnosed as having diabetes and who requires insulin injections during the school day or for  
 546 whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

547 10. The practice of nursing by any nurse who is a graduate of a foreign nursing school and has met  
 548 the credential, language, and academic testing requirements of the Commission on Graduates of Foreign  
 549 Nursing Schools for a period not to exceed ninety days from the date of approval of an application  
 550 submitted to the Board when such nurse is working as a nonsupervisory staff nurse in a licensed nursing  
 551 home or certified nursing facility. During such ninety-day period, such nurse shall take and pass the  
 552 licensing examination to remain eligible to practice nursing in Virginia; no exemption granted under this  
 553 subdivision shall be extended;

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

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

574 13. The practice of nursing by any nurse who holds a current unrestricted license from another state,  
 575 the District of Columbia or a United States possession or territory, while such nurse is in the  
 576 Commonwealth temporarily and is practicing nursing in a summer camp or in conjunction with clients  
 577 who are participating in specified recreational or educational activities;

578 14. *The practice of massage therapy that is an integral part of a program of study by a student*  
 579 *enrolled in a massage therapy educational program under the direction of a licensed massage therapist.*  
 580 *Any student enrolled in a massage therapy educational program shall be identified as a "Student*  
 581 *Massage Therapist" and shall deliver massage therapy under the supervision of an appropriate clinical*  
 582 *instructor recognized by the educational program;*

583 15. *The practice of massage therapy by a massage therapist licensed or certified in good standing in*  
 584 *another state, the District of Columbia, or another country, while such massage therapist is volunteering*  
 585 *at a sporting or recreational event or activity, is responding to a disaster or emergency declared by the*  
 586 *appropriate authority, is travelling with an out-of-state athletic team or an athlete for the duration of*  
 587 *the athletic tournament, game, or event in which the team or athlete is competing, or is engaged in*  
 588 *educational seminars;*

589 16. *Any person providing services related to the domestic care of any family member or household*  
 590 *member so long as that person does not offer, hold out, or claim to be a massage therapist; or*

591 17. *Any health care professional licensed or certified under this title for which massage therapy is a*  
 592 *component of his practice.*

593 18. *Any individual who provides stroking of the hands, feet, or ears or the use of touch, words, and*  
 594 *directed movement, including healing touch, therapeutic touch, mind-body centering, orthobionomy,*  
 595 *traeger therapy, reflexology, polarity therapy, reiki, qigong, muscle activation techniques, or practices*  
 596 *with the primary purpose of affecting energy systems of the human body.*

597 **§ 54.1-3005. Specific powers and duties of Board.**

598 In addition to the general powers and duties conferred in this title, the Board shall have the  
 599 following specific powers and duties:

600 1. To prescribe minimum standards and approve curricula for educational programs preparing persons  
 601 for licensure or certification under this chapter;

602 2. To approve programs that meet the requirements of this chapter and of the Board;

603 3. To provide consultation service for educational programs as requested;

604 4. To provide for periodic surveys of educational programs;

605 5. To deny or withdraw approval from educational programs for failure to meet prescribed standards;

606 6. To provide consultation regarding nursing practice for institutions and agencies as requested and  
607 investigate illegal nursing practices;

608 7. To keep a record of all its proceedings;

609 8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations  
610 consistent with federal law and regulation. The Board shall require all schools to demonstrate their  
611 compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in  
612 response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to  
613 § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of  
614 licensed practical nurses to teach nurse aides;

615 9. To approve programs that entitle professional nurses to be registered as clinical nurse specialists  
616 and to prescribe minimum standards for such programs;

617 10. To maintain a registry of clinical nurse specialists and to promulgate regulations governing  
618 clinical nurse specialists;

619 11. To ~~certify~~ *license* and maintain a registry of all ~~certified~~ *licensed* massage therapists and to  
620 promulgate regulations governing the criteria for ~~certification~~ *licensure* as a massage therapist and the  
621 standards of professional conduct for ~~certified~~ *licensed* massage therapists;

622 12. To promulgate regulations for the delegation of certain nursing tasks and procedures not  
623 involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by  
624 and under the supervision of a registered nurse, who retains responsibility and accountability for such  
625 delegation;

626 13. To develop and revise as may be necessary, in coordination with the Boards of Medicine and  
627 Education, guidelines for the training of employees of a school board in the administration of insulin  
628 and glucagon for the purpose of assisting with routine insulin injections and providing emergency  
629 treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by  
630 September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs  
631 of publication;

632 14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate  
633 regulations for its implementation;

634 15. To collect, store and make available nursing workforce information regarding the various  
635 categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

636 16. To expedite application processing, to the extent possible, for an applicant for licensure or  
637 certification by the Board upon submission of evidence that the applicant, who is licensed or certified in  
638 another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

639 17. To register medication aides and promulgate regulations governing the criteria for such  
640 registration and standards of conduct for medication aides;

641 18. To approve training programs for medication aides to include requirements for instructional  
642 personnel, curriculum, continuing education, and a competency evaluation;

643 19. To set guidelines for the collection of data by all approved nursing education programs and to  
644 compile this data in an annual report. The data shall include but not be limited to enrollment, graduation  
645 rate, attrition rate, and number of qualified applicants who are denied admission;

646 20. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees  
647 of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services in  
648 the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such  
649 training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or  
650 osteopathic medicine, or pharmacist;

651 21. In order to protect the privacy and security of health professionals licensed, registered or certified  
652 under this chapter, to promulgate regulations permitting use on identification badges of first name and  
653 first letter only of last name and appropriate title when practicing in hospital emergency departments, in  
654 psychiatric and mental health units and programs, or in health care facility units offering treatment for  
655 patients in custody of state or local law-enforcement agencies;

656 22. To revise, as may be necessary, guidelines for seizure management, in coordination with the  
657 Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure  
658 disorders in the public schools. The revised guidelines shall be finalized and made available to the  
659 Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of  
660 Education's website; and

661 23. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse  
662 practitioners pursuant to § 54.1-2957.

663 **§ 54.1-3005.1. Criminal history background checks.**

664 The Board shall require each applicant for licensure as a practical nurse ~~or~~, registered nurse, *or*  
665 *licensed massage therapist* to submit fingerprints and provide personal descriptive information to be  
666 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal

667 Bureau of Investigation for the purpose of obtaining criminal history record information regarding the  
 668 applicant. The cost of fingerprinting and the criminal history record search shall be paid by the  
 669 applicant.

670 The Central Criminal Records Exchange shall forward the results of the state and federal criminal  
 671 history record search to the Board, which shall be a governmental entity. If an applicant is denied  
 672 licensure because of information appearing on his criminal history record and the applicant disputes the  
 673 information upon which the denial was based, the Central Criminal Records Exchange shall, upon  
 674 written request, furnish to the applicant the procedures for obtaining a copy of the criminal history  
 675 record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. The  
 676 information shall not be disseminated except as provided in this section.

677 **§ 54.1-3008. Particular violations; prosecution.**

678 A. It shall be a Class 1 misdemeanor for any person to:

679 1. Practice nursing under the authority of a license or record illegally or fraudulently obtained or  
 680 signed or issued unlawfully or under fraudulent representation;

681 2. Practice nursing unless licensed to do so under the provisions of this chapter;

682 3. Knowingly employ an unlicensed person as a professional or practical nurse or knowingly permit  
 683 an unlicensed person to represent himself as a professional or practical nurse;

684 4. Use in connection with his name any designation tending to imply that he is a professional nurse  
 685 or a practical nurse unless duly licensed to practice under the provisions of this chapter;

686 5. Practice professional nursing or practical nursing during the time his license is suspended or  
 687 revoked;

688 6. Conduct a nursing education program for the preparation of professional or practical nurses unless  
 689 the program has been approved by the Board; *or*

690 7. ~~Claim to be, on and after July 1, 1997, a certified massage therapist or massage therapist or use~~  
 691 ~~any designation tending to imply that he is a massage therapist or certified massage therapist unless he~~  
 692 ~~is certified under the provisions of this chapter~~ *Engage in the practice of massage therapy or hold*  
 693 *himself out as practicing massage therapy unless he holds a license as a massage therapist issued by*  
 694 *the Board.*

695 B. The provisions of this section shall apply, mutatis mutandis, to persons holding a multistate  
 696 licensure privilege to practice nursing.

697 **Article 5.**

698 **Certification Licensure of Massage Therapists.**

699 **§ 54.1-3029. Qualifications for a licensed massage therapist.**

700 A. In order to be ~~certified~~ *licensed* as a massage therapist, the applicant shall furnish evidence  
 701 satisfactory to the Board that the applicant:

702 1. Is at least 18 years old;

703 2. Has successfully completed a minimum of 500 hours of training from a massage therapy program,  
 704 certified or approved by the State Council of Higher Education or an agency in another state, the  
 705 District of Columbia, or a United States territory that approves educational programs, notwithstanding  
 706 the provisions of § 23-276.2;

707 3. Has passed the ~~National Certification Exam for Therapeutic Massage and Bodywork, the National~~  
 708 ~~Certification Exam for Therapeutic Massage, the~~ Licensing Examination of the Federation of State  
 709 Massage Therapy Boards; or an ~~exam~~ *examination* deemed acceptable to the Board of Nursing; and

710 4. Has not committed any acts or omissions that would be grounds for disciplinary action or denial  
 711 of ~~certification~~ *licensure* as set forth in this chapter.

712 B. ~~The Board may certify any applicant who has been practicing massage therapy for up to 10 years~~  
 713 ~~prior to July 1, 1997, and has completed at least 200 hours of training in an education program. Such~~  
 714 ~~programs may be, but shall not be required to be, certified or approved by the State Council of Higher~~  
 715 ~~Education or an agency in another state, the District of Columbia, or a United States territory that~~  
 716 ~~approves educational programs, or has been in practice for 10 years or more prior to July 1, 1997, and~~  
 717 ~~has completed 20 hours of such training; or has passed the National Certification Exam for Therapeutic~~  
 718 ~~Massage and Bodywork prior to 1994.~~

719 C. The Board may issue a provisional ~~certification~~ *license* to an applicant prior to passing the  
 720 ~~National Certification Exam for Therapeutic Massage and Bodywork~~ *Licensing Examination of the*  
 721 *Federation of State Massage Therapy Boards* for such time and in such manner as prescribed by the  
 722 Board. No more than one provisional ~~certification~~ *license* shall be issued to any applicant.

723 D. C. The Board may ~~certify~~ *license* without examination any applicant who is licensed or ~~certified~~  
 724 as a massage therapist in another state, the District of Columbia, a United States possession or territory,  
 725 or another country, and, in the opinion of the Board, meets the requirements for ~~certified~~ *licensed*  
 726 massage therapists in the Commonwealth.

727 **§ 54.1-3029.1. Advisory Board on Massage Therapy.**

728 The Advisory Board on Massage Therapy shall assist the Board in carrying out the provisions of this  
729 chapter regarding the qualifications, examination, registration, regulation, and standards of professional  
730 conduct of massage therapists as described in § 54.1-3029. The Advisory Board shall also assist in such  
731 other matters relating to the practice of massage therapy as the Board may require.

732 The Advisory Board on Massage Therapy shall consist of five members to be appointed by the  
733 Governor for four-year terms as follows: three members shall be ~~certified~~ *licensed* massage therapists  
734 who have practiced in the Commonwealth for not less than three years prior to their appointment; one  
735 shall be an administrator or faculty member of a nationally accredited school of massage therapy; and  
736 one shall be a citizen member appointed from the Commonwealth at large.

737 The Advisory Board shall elect a chairman and vice-chairman from among its membership. The  
738 Advisory Board shall meet at least once a year and may hold additional meetings as necessary to  
739 perform its duties. A majority of the Board shall constitute a quorum for the conduct of business.

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

742 **2. That the Board of Nursing shall promulgate regulations to implement the provisions of this act**  
743 **to be effective within 280 days of its enactment.**

744 **3. That any person holding a certificate to practice massage therapy prior to January 1, 2017,**  
745 **shall be deemed to be licensed thereafter and the Board of Nursing shall at the time of renewal**  
746 **provide such person a license.**

747 **4. That the Board of Nursing shall issue certificates for massage therapy until the effective date of**  
748 **regulations promulgated pursuant to this act.**