

# Chapter 25 of Title 54.1 of the Code of Virginia

## Department of Health Professions

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**§ 54.1-2500. Definitions.**

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

"Board" means the Board of Health Professions.

"Department" means the Department of Health Professions.

"Director" means the Director of the Department of Health Professions.

"Health regulatory board" or "regulatory board" means any board included within the Department of Health Professions as provided in § 54.1-2503.

(1977, c. 579, § 54-950; 1980, c. 678; 1983, c. 115; 1985, c. 448; 1986, c. 564; 1987, c. 686; 1988, c. 765.)

**§ 54.1-2501. Department established.**

The Department of Health Professions established within the executive branch, shall be under the supervision and management of the Director of the Department.

(1977, c. 579, § 54-950.1; 1984, c. 720; 1986, c. 564; 1988, c. 765.)

**§ 54.1-2502. Use of consultants in investigations.**

The Department of Health Professions shall establish a roster of consultants in health care specialties for each health regulatory board, as required. The Department shall contract with each consultant to assist in the investigation and evaluation of violations of statute or regulations of the health regulatory boards and to provide expert testimony as necessary in any subsequent administrative hearing. The cost of the consultants shall be paid by the board for which the services are provided.

Any consultant under contract to the Department shall have immunity from civil liability resulting from any communication, finding, opinion or conclusion made in the course of his duties unless such person acted in bad faith or with malicious intent.

(1986, c. 564, § 54-960.1; 1988, c. 765.)

**§ 54.1-2503. Boards within Department.**

In addition to the Board of Health Professions, the following boards are included within the Department: Board of Audiology and Speech-Language Pathology, Board of Counseling, Board of Dentistry, Board of Funeral Directors and Embalmers, Board of Long-Term Care Administrators, Board of Medicine, Board of Nursing, Board of Optometry, Board of Pharmacy, Board of Physical Therapy, Board of Psychology, Board of Social Work and Board of Veterinary Medicine.

(1977, c. 579, § 54-950.2; 1980, c. 678; 1983, c. 115; 1987, c. 686; 1988, c. 765; 1992, cc. 706, 841; 1993, c. 869; 2000, cc. 473, 688; 2005, cc. 610, 924.)

**§ 54.1-2504. Appointment of Director.**

The Director of the Department of Health Professions shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor.

(1986, c. 564, § 54-954.1; 1988, c. 765.)

**§ 54.1-2505. Powers and duties of Director of Department.**

The Director of the Department shall have the following powers and duties:

1. To supervise and manage the Department;
2. To perform or consolidate such administrative services or functions as may assist the operation of the boards;
3. To prepare, approve and submit to the Governor, after consultation with the boards, all requests for appropriations and be responsible for all expenditures pursuant to appropriations;
4. To provide such office facilities as will allow the boards to carry out their duties;
5. To employ personnel as required for the proper performance of the responsibilities of the Department subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 within the limits of appropriations made by law;
6. To receive all complaints made against regulated health care professionals;
7. To develop administrative policies and procedures governing the receipt and recording of complaints;
8. To monitor the status of actions taken under the auspices of the boards regarding complaints until the closure of each case;
9. To provide investigative and such other services as needed by the boards to enforce their respective statutes and regulations;
10. To provide staff to assist in the performance of the duties of the Board of Health Professions;
11. To collect and account for all fees to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the health regulatory boards, the Health Practitioners' Monitoring Program, and the Department and Board of Health Professions shall be paid. Such fees shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Monitoring Program, and the Department and Board

of Health Professions and shall not be transferred to any agency other than the Department of Health Professions, except as provided in §§ 54.1-3011.1 and 54.1-3011.2;

12. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including, but not limited to, contracts with the United States, other states, agencies and governmental subdivisions of the Commonwealth;

13. To accept grants from the United States government, its agencies and instrumentalities, and any other source. The Director shall have the power to comply with conditions and execute agreements as may be necessary, convenient or desirable;

14. To promulgate and revise regulations necessary for the administration of the Department and such regulations as are necessary for the implementation of the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of this title and subdivision 19 of this section;

15. To report promptly, after consultation with the presiding officer of the appropriate health regulatory board or his designee, to the Attorney General or the appropriate attorney for the Commonwealth any information the Department obtains which, upon appropriate investigation, indicates, in the judgment of the Director, that a person licensed by any of the health regulatory boards has violated any provision of criminal law, including the laws relating to manufacturing, distributing, dispensing, prescribing or administering drugs other than drugs classified as Schedule VI drugs. When necessary, the Attorney General or the attorney for the Commonwealth shall request that the Department of Health Professions or the Department of State Police conduct any subsequent investigation of such report. Upon request and affidavit from an attorney for the Commonwealth, the Director shall provide documents material to a criminal investigation of a person licensed by a health regulatory board; however, peer review documents shall not be released and shall remain privileged pursuant to § 8.01-581.17. For the purpose of this section, the terms manufacturing, distributing, dispensing, prescribing or administering drugs shall not include minor administrative or clerical errors which do not affect the inventory of drugs required by Chapter 34 (§ 54.1-3400 et seq.) of this title and do not indicate a pattern of criminal behavior;

16. To keep records of the names and qualifications of registered, certified or licensed persons;

17. To exercise other powers and perform other duties required of the Director by the Governor;

18. To issue subpoenas in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) for any informal fact finding or formal proceeding within the jurisdiction of the Department or any regulatory board;

19. To establish, and revise as necessary, a health practitioners' monitoring program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of this title;

20. To establish, and revise as necessary, with such federal funds, grants, or general funds as may be appropriated or made available for this program, the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of this title; and

21. To assess a civil penalty against any person who is not licensed by a health regulatory board for failing to report a violation pursuant to § 54.1-2400.6 or § 54.1-2909.

(1977, c. 579, § 54-955; 1980, c. 678; 1983, c. 528; 1986, c. 564; 1988, cc. 266, 765; 1997, c. 439; 2002, c. 481; 2003, cc. 753, 762; 2004, c. 64; 2006, c. 631; 2009, c. 472.)

**§ 54.1-2506. Enforcement of laws by Director and investigative personnel; authority of investigative personnel and Director.**

A. The Director and investigative personnel appointed by him shall be sworn to enforce the statutes and regulations pertaining to the Department, the Board, and the health regulatory boards and shall have the authority to investigate any violations of those statutes and regulations and to the extent otherwise authorized by law inspect any office or facility operated, owned or employing individuals regulated by any health regulatory board. The Director or his designee shall have the power to subpoena witnesses and to request and obtain patient records, business records, papers, and physical or other evidence in the course of any investigation or to issue subpoenas requiring the production of such evidence. A subpoena issued pursuant to this section may be served by (i) any person authorized to serve process under § 8.01-293, (ii) investigative personnel appointed by the Director, (iii) registered or certified mail or by equivalent commercial parcel delivery service, or (iv) email or facsimile if requested to do so by the recipient. Upon failure of any person to comply with a subpoena duly served, the Director may, pursuant to § 54.1-111, request that the Attorney General or the attorney for the Commonwealth for the jurisdiction in which the recipient of the subpoena resides, is found, or transacts business seek enforcement of the subpoena in such jurisdiction.

B. All investigative personnel shall be vested with the authority to (i) administer oaths or affirmations for the purpose of receiving complaints of violations of this subtitle, (ii) serve and execute any warrant, paper or process issued by any court or magistrate, the Board, the Director or in his absence a designated subordinate, or by any regulatory board under the authority of the Director, (iii) request and receive criminal history information under the provisions of § 19.2-389, and (iv) request and receive social security numbers from practitioners or federal employee identification numbers from facilities.

C. The Director shall have the authority to issue summonses for violations of statutes and regulations governing the unlicensed practice of professions regulated by the Department. The Director may delegate such authority to investigators appointed by him. In the event a person issued such a summons fails or refuses to discontinue the unlawful acts or refuses to give a written promise to appear at the time and place specified in the summons, the investigator may appear before a magistrate or other issuing authority having jurisdiction to obtain a criminal warrant pursuant to § 19.2-72.

1980, c. 678, § 54-960; 1986, c. 564; 1988, c. 765; 1993, c. 869; 2003, cc. [753](#), [762](#); 2008, c. [37](#); 2011, c. [50](#); 2018, c. [466](#).

#### **§ 54.1-2506.01. Investigation of reported violations.**

The Department shall investigate all complaints that are within the jurisdiction of the relevant health regulatory board received from (i) the general public and (ii) all reports received pursuant to §§ 54.1-2400.6, 54.1-2400.7, 54.1-2709.3, 54.1-2709.4, 54.1-2908, or § 54.1-2909.

(2003, cc. 753, 762; 2004, c. 64.)

#### **§ 54.1-2506.1. Submission of required information.**

A. The Department is authorized to require individuals applying for initial licensure, certification, or registration, and individuals who are licensed, certified, or registered by a health regulatory board to provide information in addition to that which is required to determine the individual's qualifications. Such additional information shall include identification of the individual's self-designated specialties and subspecialties; credentials and certifications issued by professional associations, institutions and boards; and locations of each practice site, number of hours spent practicing at each practice site location, and demographic information. The Department, in consultation with the health regulatory boards, may establish criteria to identify additional data elements deemed necessary for workforce and health planning purposes. Such information shall be collected and maintained by the Department for workforce and health planning purposes in cooperation with agencies and institutions of the Commonwealth and shall be released by the Department only in the aggregate without reference to any person's name or other individual identifiers; however, the Department may release any information that identifies specific individuals for the purpose of determining shortage designations and to qualified personnel if pertinent to an investigation, research, or study, provided a written agreement between such qualified personnel and the Department, which ensures that any person to whom such identities are divulged shall preserve the confidentiality of those identities, is executed. Prior to collecting any information described in this section from individuals, the Department shall first attempt to obtain from other sources information sufficient for workforce planning purposes.

B. For the purpose of expediting the dissemination of public health information, including notice about a public health emergency, the Department is authorized to require certain licensed, certified or registered persons to report any email address, telephone number and facsimile number that may be used to contact such person in the event of a public health emergency or to provide information related to serving during a public health emergency. In the event of an animal health emergency, the Department shall provide to the State Veterinarian the email addresses, telephone numbers and facsimile numbers that may be used to contact licensed veterinarians.

Such email addresses, telephone numbers and facsimile numbers shall not be published, released or made available for any other purpose by the Department, the Department of Health, or the State Veterinarian.

The Director, in consultation with the Department of Health and the Department of Emergency Management, shall adopt regulations that identify those licensed, certified or registered persons to which the requirement to report shall apply and the procedures for reporting.

(1994, c. 853; 1997, c. 806; 2003, c. 602; 2005, c. 55; 2009, c. 382.)

**§ 54.1-2506.2. Protection of escrow funds, etc., held by persons licensed by any of the health regulatory boards.**

Whenever funds are held in escrow, in trust, or in some other fiduciary capacity by a person licensed by any of the health regulatory boards and the Director or investigative personnel appointed by him have reason to believe that such person is not able or is unwilling to adequately protect such funds or the interest of any person therein, the Director may file a petition with any court of record having equity jurisdiction over such person or any of the funds held by such person stating the facts upon which he relies. The court may temporarily enjoin further activity by such person and take such further action as shall be necessary to conserve, protect and disburse the funds involved, including the appointment of a receiver. If a receiver is appointed his expenses and a reasonable fee as determined by the court shall be paid by such person.

(1995, c. 738.)

**§ 54.1-2507. Board of Health Professions; membership, appointments, and terms of office.**

The Board of Health Professions shall consist of one member from each health regulatory board appointed by the Governor and five members to be appointed by the Governor from the Commonwealth at large. No member of the Board of Health Professions who represents a health regulatory board shall serve as such after he ceases to be a member of a board. The members appointed by the Governor shall be subject to confirmation by the General Assembly and shall serve for four-year terms or terms concurrent with their terms as members of health regulatory boards, whichever is less.

1977, c. 579, § 54-951; 1985, c. 448; 1986, c. 564; 1988, c. 765; 2016, c. 105.

**§ 54.1-2508. Chairman; meetings of Board; quorum.**

The chairman of the Board of Health Professions shall be elected by the Board from its members. The Board shall meet at least annually and may hold additional meetings as necessary to perform its duties. A majority of the Board shall constitute a quorum for the conduct of business.

(1977, c. 579, § 54-953; 1980, c. 678; 1986, c. 564; 1988, c. 765; 2012, c. 361.)

**§ 54.1-2509. Reimbursement of Board members for expenses.**

All members of the Board shall be compensated in accordance with § 2.2-2813 from the funds of the Department.

(1977, c. 579, § 54-954; 1980, cc. 678, 728; 1986, c. 564; 1988, c. 765.)

**§ 54.1-2510. Powers and duties of Board of Health Professions.**

The Board of Health Professions shall have the following powers and duties:

1. To evaluate the need for coordination among the health regulatory boards and their staffs and report its findings and recommendations to the Director and the boards;
2. To evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated by other provisions of this title, to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed. Whenever the Board determines that the public interest requires that a health care profession or occupation which is not regulated by law should be regulated, the Board shall recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation;
3. To review and comment on the budget for the Department;
4. To provide a means of citizen access to the Department;
5. To provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities;
6. To monitor the policies and activities of the Department, serve as a forum for resolving conflicts among the health regulatory boards and between the health regulatory boards and the Department and have access to departmental information;
7. To advise the Governor, the General Assembly and the Director on matters relating to the regulation or deregulation of health care professions and occupations;
8. To make bylaws for the government of the Board of Health Professions and the proper fulfillment of its duties under this chapter;
9. To promote the development of standards to evaluate the competency of the professions and occupations represented on the Board;
10. To review and comment, as it deems appropriate, on all regulations promulgated or proposed for issuance by the health regulatory boards under the auspices of the Department. At least one member of the relevant board shall be invited to be present during any comments by the Board on proposed board regulations;
11. To review periodically the investigatory, disciplinary and enforcement processes of the Department and the individual boards to ensure the protection of the public and the fair and equitable treatment of health professionals;

12. To examine scope of practice conflicts involving regulated and unregulated professions and advise the health regulatory boards and the General Assembly of the nature and degree of such conflicts;

13. To receive, review, and forward to the appropriate health regulatory board any departmental investigative reports relating to complaints of violations by practitioners of Chapter 24.1 (§ 54.1-2410 et seq.) of this subtitle;

14. To determine compliance with and violations of and grant exceptions to the prohibitions set forth in Chapter 24.1 of this subtitle; and

15. To take appropriate actions against entities, other than practitioners, for violations of Chapter 24.1 of this subtitle.

(1977, c. 579, § 54-955.1; 1980, c. 678; 1984, cc. 447, 720, 734; 1986, c. 564; 1988, c. 765; 1993, c. 869.)

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