A Bill to amend and reenact §§ 54.1-3500, 54.1-3501 and 54.1-3506 of the Code of Virginia and to amend the Code of Virginia by adding Article 3 of Chapter 35 of Title 54.1 sections numbered 54.1-3516 through 54.1-3520, relating to licensure of professional art therapists.

Patrons--

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3500, 54.1-3501, 54.1-3506 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 54.1-3516, 54.1-3517, 54.1-3518, 54.1-35-19, and 54.1-3520 as follows:

§ 54.1-3500. Definitions.

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

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

"Art therapy" means the means the integrated use of psychotherapeutic principles, art media, and the creative process to assist individuals, families, or groups in increasing awareness of self and others, coping with symptoms, stress, and traumatic experiences, enhancing cognitive abilities, and identifying and implementing therapeutic interventions to meet developmental, behavioral, mental, and emotional needs.

"Board" means the Board of Counseling.

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

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

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.
"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

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

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

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

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

"Practice of professional art therapy" means rendering or offering to render art therapy and appraisal activities, as an independent or adjunctive therapist, to an individual, family, or group using the application of art therapy principles and methods in the diagnosis, prevention, treatment and amelioration of psychological problems and cognitive, emotional and behavioral conditions.

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

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

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

"Residency" means a post-internship supervised clinical experience registered with the Board.
"Resident" means an individual who has submitted a supervisory contract to the Board and has received Board approval to provide clinical services in professional counseling under supervision.

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

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

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

§ 54.1-3501. Exemption from requirements of licensure.

The requirements for licensure in this chapter shall not be applicable to:

1. Persons who render services that are like or similar to those falling within the scope of the classifications or categories in this chapter, including persons acting as members of substance abuse self-help groups, so long as the recipients or beneficiaries of such services are not subject to any charge or fee, or any financial requirement, actual or implied, and the person rendering such service is not held out, by himself or otherwise, as a person licensed under this chapter.

2. The activities or services of a student pursuing a course of study in counseling, substance abuse treatment, marriage and family therapy or professional art therapy in an institution accredited by an accrediting agency recognized by the Board or under the supervision of a person licensed or certified under this chapter, if such activities or services constitute a part of the student's course of study and are adequately supervised.

3. The activities, including marriage and family therapy, counseling, substance abuse treatment or art therapy, of rabbis, priests, ministers or clergymen of any religious denomination or sect when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made or when such activities are performed, whether with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination or sect, and the person rendering service remains accountable to its established authority.

4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated
employment, engages in an independent private practice shall not be exempt from the requirements for licensure.

5. Persons regularly employed by private business firms as personnel managers, deputies or assistants so long as their counseling activities relate only to employees of their employer and in respect to their employment.

6. Persons regulated by this Board as professional counselors or persons regulated by another board within the Department of Health Professions who provide, within the scope of their practice, marriage and family therapy, counseling, substance abuse treatment or art therapy to individuals or groups.

§ 54.1-3506. License required.

In order to engage in the practice of counseling or marriage and family therapy, in the independent practice of substance abuse treatment, or the practice of professional art therapy, as defined in this chapter, it shall be necessary to hold a license issued by the Board.

The Board may issue a license, without examination, for the practice of marriage and family therapy or the independent practice of substance abuse treatment to persons who hold a current and unrestricted license as a professional counselor within the Commonwealth and who meet the clinical and academic requirements for licensure as a marriage and family therapist or licensed substance abuse treatment practitioner, respectively. The applicant for such license shall present satisfactory evidence of qualifications equal to those required of applicants for licensure as marriage and family therapists or licensed substance abuse treatment practitioners, respectively, by examination in the Commonwealth.

Any person who renders substance abuse treatment services as defined in this chapter and who is not licensed to do so, other than a person who is exempt pursuant to § 54.1-3501, shall render such services only when he is (i) under the supervision and direction of a person licensed under this chapter who shall be responsible for the services performed by such unlicensed person, or (ii) in compliance with the regulations governing an organization or a facility licensed by the Department of Behavioral Health and Developmental Services.

§ 54.1-3516. Advisory Committee on Art Therapy; membership; terms.

A. The Board shall appoint an Advisory Committee on Art Therapy (Advisory Committee) to assist the Board in carrying out the provisions of this chapter regarding the qualifications, licensing, and regulation of licensed professional art therapists. The Advisory Committee shall also assist in such other matters relating to the practice of professional art therapy as the Board may require.

B. The Advisory Committee shall consist of not less than three members appointed by the Chairperson of the Board, subject to approval by the Board. Advisory Committee members shall include at least three licensed professional art therapists and may include a nonlegislative citizen member who has used art therapy services. Members of the Advisory Committee shall be citizens of the Commonwealth.
C. Members of the Advisory Committee shall be appointed for a term determined by the Board. Members may be reappointed upon expiration of their terms. Nominations for professional members of the Advisory Committee may be made from a list of names of licensed art therapists submitted to the Board by the Virginia Art Therapy Association. Any vacancy in the membership of the Advisory Committee shall be filled for the unexpired term in the same manner as an original appointment.

D. Members of the Advisory Committee shall serve as volunteers without compensation but shall be reimbursed for reasonable expenses incurred in attendance at meetings and other official business as determined by the Board.

E. The Advisory Committee shall meet at least twice a year and may hold additional meetings as the Board may determine necessary to carry out its duties under this chapter.

§ 54.1-3517. Advisory Committee on Art Therapy; duties.

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

1. Recommend to the Board, for its promulgation into regulation, additional criteria for licensure as a professional art therapist and the standards of professional conduct for holders of such licenses.

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

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

4. Assist in such other matters dealing with the regulation and practice of professional art therapy as the Board may in its discretion direct.

§ 54.1-3518. Regulation of the practice of professional art therapy; licensure; licensing requirements; scope of practice.

A. The Board shall, in consultation with Advisory Committee on Art Therapy, promulgate regulations governing the practice of professional art therapy. The regulations shall (i) set forth the requirements for licensure to practice professional art therapy, (ii) provide for appropriate license application and renewal, (iii) include requirements for licensure renewal and continuing education, (iv) be consistent with the Code of Ethical Practice of the Art Therapy Credentials Board, and (v) allow for independent practice.

B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed professional art therapist shall submit evidence satisfactory to the Board that the applicant has (i) earned a master’s degree from an art therapy program that is approved by the American Art
Therapy Association, or by a successor accrediting organization recognized by the Council on Higher Education Accreditation, or a substantially equivalent master’s degree in a related field from an accredited college or university as approved by the Board, (ii) completed a specified number of hours of clinical experience involving the practice of art therapy supervised by a licensed professional art therapist or other mental health professional licenses by the Board, which shall not be less than the clinical experience hour and clinical supervision hour requirements for professional counselors, and (iii) passed the certification examination of the Art Therapy Credentials Board.

C. A licensed professional art therapist shall be qualified to (i) perform services involving the application of art therapy principles and methods in the diagnosis, prevention, treatment and amelioration of psychological, emotional, behavioral, and developmental conditions, (ii) exercise independent professional judgment in using art therapy assessments to determine treatment goals and implement therapeutic art interventions, (iii) employ art media, the creative process and the resulting artwork to assist clients enhance neurological, cognitive, and verbal abilities, reduce psychiatric symptoms of depression, anxiety, post traumatic stress and attachment disorders, develop social and learning skills, aid sensory impairments and enhance developmental capabilities, (iv) engage in case management, client education, referral activities, recordkeeping, and consultation with other professionals, and (v) supervise, direct and instruct others who provide art therapy services.

§ 54.1-3519. Unlawful practice and designation as a professional art therapist; exceptions.

A. It shall be unlawful for any person not holding a current and valid license from the Board to practice as a professional art therapist or to use the title “Licensed Professional Art Therapist” or to claim to be a licensed professional art therapist.

B. Any person who engages in the practice of professional art therapy as defined in this chapter and who is not licensed to do so, other than a person who is exempt pursuant to § 54.1-3501, shall render such services only when he or she is (i) under the supervision and direction of a person licensed under this chapter who shall be responsible for the services performed by such unlicensed person, or (ii) in compliance with the regulations governing an organization or a facility licensed by the Department of Behavioral Health and Developmental Services.

§ 54.1-3520. Licensure of certain persons possessing substantially equivalent qualification, education or experience.

A. The Board may, upon application and payment of applicable fees, grant a license as a professional art therapist to a person who, at the time of application, holds a valid license as a art therapist issued by another jurisdiction if the requirements for such license are equal to, or more stringent than, the requirements of this chapter, as determined by the Board.

B. Notwithstanding the provisions of § 54.1-3518, the Board may issue a license as a licensed professional art therapist to a person who, for a period of time to be determined by the Board but not more than one year after the effective date of the regulations implementing the provisions of this act, has applied for such a license and submits evidence satisfactory to the Board that the applicant has (i) earned a master’s or doctoral degree in art therapy from a program approved by the American Art Therapy Association or a substantially equivalent degree as determined by
the Board, (ii) completed a minimum of nine (9) semester credit hours, or the equivalent, of graduate-level courses specifically related to diagnosis and treatment of mental, emotional, behavioral and addiction disorder, and (iii) engaged in the practice of art therapy for a period of not less than seven years, which may include one or more years of supervised experience as determined by the Board.

2. That the initial appointments of members of the Advisory Committee on Art Therapy shall be made by the Board in advance of promulgation of regulations to implement the provisions of this act from a list of nominations submitted to the Board by the Virginia Art Therapy Association of art therapists who hold national certification in art therapy and have engaged in the practice of art therapy in the Commonwealth for not less than five years. Until the licensure system for professional art therapists is established, Certified Art Therapists shall qualify to hold appointment as licensed professional art therapist members of the Advisory Committee.

3. That the Board of Counseling shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.