

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 54.1-2900, 54.1-2910.1, and 54.1-2912.3 of the Code of Virginia and
3 to amend the Code of Virginia by adding in Article 1 of Chapter 29 of Title 54.1 a section numbered
4 54.1-2910.2, relating to Board of Medicine disciplinary procedure.

5 [H 2157]
6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 54.1-2900, 54.1-2910.1, and 54.1-2912.3 of the Code of Virginia are amended and
9 reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 29 of Title
10 54.1 a section numbered 54.1-2910.2 as follows:

11 § 54.1-2900. Definitions.

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

13 "Acupuncturist" means individuals approved by the Board to practice acupuncture. This is limited to
14 "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy,
15 chiropractic or podiatry who has successfully completed the requirements for licensure established by the
16 Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

17 "Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles
18 in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the
19 context of a chemical dependency treatment program.

20 "Board" means the Board of Medicine.

21 "Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure
22 or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

23 "Medical malpractice judgment" means any final order of any court entering judgment against a
24 licensee of the Board that arises out of any tort action or breach of contract action for personal injuries
25 or wrongful death, based on health care or professional services rendered, or that should have been
26 rendered, by a health care provider, to a patient.

27 "Medical malpractice settlement" means any written agreement and release entered into by or on
28 behalf of a licensee of the Board in response to a written claim for money damages that arises out of
29 any personal injuries or wrongful death, based on health care or professional services rendered, or that
30 should have been rendered, by a health care provider, to a patient.

31 "Physician assistant" means an individual who has met the requirements of the Board for licensure
32 and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry.

33 "Practice of acupuncture" means the stimulation of certain points on or near the surface of the body
34 by the insertion of needles to prevent or modify the perception of pain or to normalize physiological
35 functions, including pain control, for the treatment of certain ailments or conditions of the body and
36 includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture
37 does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the
38 use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular
39 acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment
40 program for patients eligible for federal, state or local public funds by an employee of the program who
41 is trained and approved by the National Acupuncture Detoxification Association or an equivalent
42 certifying body.

43 "Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries
44 or conditions related to athletic or recreational activity that requires physical skill and utilizes strength,
45 power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or
46 condition resulting from occupational activity immediately upon the onset of such injury or condition;
47 and subsequent treatment and rehabilitation of such injuries or conditions under the direction of a
48 licensed physical therapist and the patient's physician or under the direction of any doctor of medicine,
49 osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise
50 or mechanical or other devices.

51 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
52 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
53 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
54 medicines, serums or vaccines.

55 "Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of
56 human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

57 "Practice of occupational therapy" means the evaluation, analysis, assessment, and delivery of
58 education and training in activities of daily living (ADL); the design, fabrication, and application of
59 orthoses (splints); guidance in the selection and use of adaptive equipment; therapeutic activities to
60 enhance functional performance; prevocational evaluation and training; and consultation concerning the
61 adaptation of physical environments for individuals who have disabilities.

62 "Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the
63 human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level
64 through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be
65 performed in a hospital or ambulatory surgery facility accredited by an organization listed in
66 § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and
67 ankle is within the scope of practice of podiatry.

68 "Practice of radiologic technology" means the application of x-rays to human beings for diagnostic or
69 therapeutic purposes.

70 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
71 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
72 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
73 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
74 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
75 observation and monitoring of signs and symptoms, general behavior, general physical response to
76 respiratory care treatment and diagnostic testing, including determination of whether such signs,
77 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
78 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
79 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
80 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
81 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care
82 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
83 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
84 osteopathic medicine, and shall be performed under qualified medical direction.

85 "Qualified medical direction" means, in the context of the practice of respiratory care, having readily
86 accessible to the respiratory care practitioner a licensed practitioner of medicine or osteopathic medicine
87 who has specialty training or experience in the management of acute and chronic respiratory disorders
88 and who is responsible for the quality, safety, and appropriateness of the respiratory services provided
89 by the respiratory care practitioner.

90 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,
91 podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.) of this title,
92 who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope
93 of diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is
94 delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of
95 patient and staff from unnecessary radiation, the appropriate exposure of radiographs or other procedures
96 which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is
97 exposed.

98 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
99 dental hygienist or person who is otherwise authorized by the Board of Dentistry under Chapter 27
100 (§ 54.1-2700 et seq.) of this title and the regulations pursuant thereto, who performs diagnostic
101 radiographic procedures employing equipment which emits ionizing radiation which is limited to specific
102 areas of the human body.

103 "Respiratory care" means the practice of the allied health profession responsible for the direct and
104 indirect services, including inhalation therapy and respiratory therapy, in the treatment, management,
105 diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the
106 cardiopulmonary system under qualified medical direction.

107 § 54.1-2910.1. Certain data required.

108 A. The Board of Medicine shall require all doctors of medicine, osteopathy and podiatry to report
109 and shall make available the following information:

110 1. The names of the schools of medicine, osteopathy, or podiatry and the years of graduation;

111 2. Any graduate medical, osteopathic, or podiatric education at any institution approved by the
112 Accreditation Council for Graduation Medical Education, the American Osteopathic Association or the
113 Council on Podiatric Medical Education;

114 3. Any specialty board certification as approved by the American Board of Medical Specialties, the
115 Bureau of Osteopathic Specialists of the American Osteopathic Association, the American Board of
116 Multiple Specialties in Podiatry, or the Council on Podiatric Medical Education of the American
117 Podiatric Medical Association;

118 4. The number of years in active, clinical practice as specified by regulations of the Board;

119 5. Any hospital affiliations;

120 6. Any appointments, within the most recent 10-year period, of the doctor to the faculty of a school

121 of medicine, osteopathy or podiatry and any publications in peer-reviewed literature within the most

122 recent five-year period and as specified by regulations of the Board;

123 7. The location and telephone number of any primary and secondary practice settings and the

124 approximate percentage of the doctor's time spent practicing in each setting. For the sole purpose of

125 expedited dissemination of information about a public health emergency, the doctor shall also provide to

126 the Board any e-mail address or facsimile number; however, such e-mail address or facsimile number

127 shall not be published on the profile database and shall not be released or made available for any other

128 purpose;

129 8. The access to any translating service provided to the primary and secondary practice settings of

130 the doctor;

131 9. The status of the doctor's participation in the Virginia Medicaid Program;

132 10. Any final disciplinary or other action required to be reported to the Board by health care

133 institutions, other practitioners, insurance companies, health maintenance organizations, and professional

134 organizations pursuant to §§ 54.1-2400.6, 54.1-2908, and 54.1-2909 that results in a suspension or

135 revocation of privileges or the termination of employment or a final order of the Board relating to

136 disciplinary action;

137 11. Conviction of any felony; and

138 12. Other information related to the competency of doctors of medicine, osteopathy, and podiatry, as

139 specified in the regulations of the Board.

140 B. In addition, the Board shall provide for voluntary reporting of insurance plans accepted and

141 managed care plans in which the doctor participates.

142 C. The Board shall promulgate regulations to implement the provisions of this section, including, but

143 not limited to, the release, upon request from a consumer, of such information relating to a specific

144 doctor. The Board's regulations shall provide for reports to include all ~~paid claims~~ *medical malpractice*

145 *judgments and medical malpractice settlements of more than \$10,000 within the most recent 10-year*

146 *period in categories indicating the level of significance of each award or settlement; however, the*

147 *specific numeric values of reported paid claims shall not be released in any individually identifiable*

148 *manner under any circumstances. Notwithstanding this subsection, a licensee shall report a medical*

149 *malpractice judgment or medical malpractice settlement of less than \$10,000 if any other medical*

150 *malpractice judgment or medical malpractice settlement has been paid by or for the licensee within the*

151 *preceding twelve months.*

152 § 54.1-2910.2. *Posting of disciplinary information.*

153 *The Board shall post on any department website available to the public all final orders, together*

154 *with any associated notices, which imposed disciplinary action against licensees of the Board. The*

155 *Board shall not post notices that have not been adjudicated. Notices and orders entered prior to July 1,*

156 *2007, that did not result in disciplinary action by the Board may be removed upon written request of*

157 *the licensee. Nothing in this section shall be construed to prohibit the inspection and copying of records*

158 *of disciplinary actions to the extent permitted under the Virginia Freedom of Information Act*

159 *(§ 2.2-3700 et seq.) and § 54.1-2400.2.*

160 § 54.1-2912.3. *Competency assessments of certain practitioners.*

161 *The Board shall require an assessment of the competency of any person licensed under this chapter*

162 *on whose behalf three medical malpractice ~~claims~~ judgments or medical malpractice settlements of more*

163 *than \$10,000 are paid in a within the most recent 10-year period. The assessment shall be accomplished*

164 *in 12 months or less by a program acceptable to the Board. The licensee shall bear all costs of the*

165 *assessment. The results of the assessment shall be reviewed by the Board and the Board shall determine*

166 *a plan of corrective action or appropriate resolution pursuant to the assessment. The assessment, related*

167 *documents and the processes shall be governed by the confidentiality provisions of § 54.1-2400.2 and*

168 *shall not be admissible into evidence in any medical malpractice action involving the licensee. The*

169 *Board shall report annually to the General Assembly the number of competency assessments undertaken.*