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SENATE BILL NO. 82

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Education and Health
 on January 28, 2010)

(Patron Prior to Substitute—Senator Howell)

A BILL to amend and reenact § 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-401.2:1, relating to the practice of podiatry.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-401.2:1 as follows:

§ 8.01-401.2:1. Podiatrist as an expert witness

A podiatrist shall not be permitted to testify as an expert witness against a doctor of medicine or osteopathic medicine in connection with a medical malpractice civil court proceeding or a medical malpractice review panel in any case where the doctor or osteopath is a defendant in such proceeding.

§ 54.1-2900. Definitions.

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

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

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

"Board" means the Board of Medicine.

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

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

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

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

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

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

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

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not

60 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
61 medicines, serums or vaccines.

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

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

69 "Practice of podiatry" means the *prevention, diagnosis, treatment, and cure or alleviation of physical*
70 *conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical*
71 *and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of*
72 *the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the*
73 *metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility*
74 *accredited by an organization listed in § 54.1-2939. The Board of Medicine shall determine whether a*
75 *specific type of treatment of the foot and ankle is within the scope of practice of podiatry.*

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

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

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

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

106 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
107 dental hygienist or person who is otherwise authorized by the Board of Dentistry under Chapter 27
108 (§ 54.1-2700 et seq.) of this title and the regulations pursuant thereto, who performs diagnostic
109 radiographic procedures employing equipment which emits ionizing radiation which is limited to specific
110 areas of the human body.

111 "Radiologist assistant" means an individual who has met the requirements of the Board for licensure
112 as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor
113 of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate
114 the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii)
115 evaluate image quality, make initial observations, and communicate observations to the supervising
116 radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist;
117 and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the
118 guidelines adopted by the American College of Radiology, the American Society of Radiologic
119 Technologists, and the American Registry of Radiologic Technologists.

120 "Respiratory care" means the practice of the allied health profession responsible for the direct and
121 indirect services, including inhalation therapy and respiratory therapy, in the treatment, management,

- 122** diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the
123 cardiopulmonary system under qualified medical direction.