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SENATE BILL NO. 313

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2956.12 through 54.1-2956.15, relating to licensure of surgical assistants and certification of surgical technologists.

Patron—Blevins

Referred to Committee on Education and Health

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 sections numbered 54.1-2956.12 through 54.1-2956.15 as follows:

§ 54.1-2900. Definitions.

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

"Acupuncturist" means ~~individuals~~ *an individual* 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

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

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

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

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

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

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

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

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

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

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

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

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

"Surgical assistant" means an individual who, under the direct supervision of a licensed doctor of medicine, osteopathic medicine, or podiatry is authorized to perform significant surgical tasks including manipulating tissues or organs, manipulating or inserting sutures, placing hemostatic agents, injecting local anesthetic, harvesting veins, and implanting devices.

"Surgical technologist" means an individual who, under the supervision of a licensed health practitioner, is authorized to (i) maintain surgical instrument integrity from within the surgical field during surgical procedures; (ii) perform surgical support tasks, including instrument and equipment transfers and counts, and managing fluids, specimens, and supplies; (iii) identify and correct asepsis; and (iv) perform other surgical tasks as directed.

§ 54.1-2956.12. Licensure of surgical assistants; requirements.

A. It shall be unlawful for any person not holding a current and valid license from the Board to practice as a surgical assistant or to claim to be a surgical assistant or to assume the title "Surgical Assistant," "Surgeon's Assistant," "Licensed Surgical Assistant," or any similar term, or to use the designation "L.S.A." or any variation thereof. However, a student enrolled in an education program approved by the Board may practice under the direct supervision of an appropriate clinical instructor using the title "Student Surgical Assistant."

B. It shall be unlawful for any person to practice as a surgical assistant as defined in § 54.1-2900 or to hold himself out to be or advertise that he is a surgical assistant or use the designation "L.S.A." or any variation thereof unless such person holds a current and valid license from the Board to practice as a surgical assistant.

C. The Board shall establish requirements for the licensure of surgical assistants, which shall include a surgical assistant or surgical first assistant credential issued by (i) the American Board of Surgical Assistants, (ii) the National Board of Surgical Technology and Surgical Assisting, or (iii) the National Surgical Assistant Association.

D. In lieu of the requirements of subsection C, the Board may accept completion of approved training within the uniformed services.

§ 54.1-2956.13. Certification of surgical technologists; requirements.

A. It shall be unlawful for any person not holding a current and valid certification from the Board to practice as a surgical technologist or to claim to be a surgical technologist or to assume the title "Surgical Technologist," "Certified Surgical Technologist," or any similar term, or to use the designation "C.S.T." or any variation thereof. However, a student enrolled in an education program approved by the Board may practice under the direct supervision of an appropriate clinical instructor using the title "Student Surgical Technologist."

B. It shall be unlawful for any person to practice as a surgical technologist as defined in § 54.1-2900 or to hold himself out to be or advertise that he is a surgical technologist or use the designation "C.S.T." or any variation thereof unless such person holds a current and valid certification from the Board to practice as a surgical technologist.

C. The Board shall establish requirements for the certification of surgical technologists, which shall include a current credential as a Certified Surgical Technologist from the National Board of Surgical Technology and Surgical Assisting.

D. In lieu of the requirements of subsection C, the Board may accept completion of approved training within the uniformed services.

§ 54.1-2956.14. Surgical assistants and surgical technologists; exemptions.

A. Any individual who can provide to the Board evidence that he was practicing as a surgical assistant or surgical technologist at any time during the six months prior to July 1, 2012, shall be exempt from the requirements for licensure or certification, as set out in §§ 54.1-2956.12 and 54.1-2956.13.

B. Nothing in this chapter shall prohibit a student from performing the functions of a surgical assistant or surgical technologist if the student is under the direct supervision of an appropriately licensed health care practitioner and is functioning within the scope of the student's training.

C. Nothing in §§ 54.1-2956.12 through 54.1-2956.15 shall apply to surgical procedures performed in an office-based setting. "Office-based setting" means any setting other than (i) a hospital licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a facility directly maintained and operated by the federal government, or (iii) an ambulatory surgery center.

D. Nothing in §§ 54.1-2956.12 through 54.1-2956.15 shall be construed to prohibit any other licensed practitioner from engaging in the full scope of practice for which he is licensed.

§ 54.1-2956.15. Advisory Board on Surgical Assisting and Technology; membership; qualifications; duties.

A. The Advisory Board on Surgical Assisting and Technology, hereinafter referred to as the

182 "Advisory Board," shall assist the Board of Medicine in carrying out the provisions of this chapter
183 regarding the regulation of surgical assistants and surgical technologists.

184 B. The Advisory Board shall consist of five members to be appointed by the Governor for four-year
185 terms as follows: three members shall be licensed surgical assistants or technologists who have been
186 practicing in Virginia for not less than three years prior to their appointments; one member shall be a
187 licensed doctor of medicine, osteopathy, or podiatry who is qualified to practice medicine in Virginia;
188 and one member shall be a citizen member appointed from the Commonwealth at large. Any vacancy
189 occurring during a member's term shall be filled for the unexpired balance of that term. No person shall
190 be eligible to serve on the Advisory Board for more than two successive terms.

191 C. The Advisory Board shall recommend to the Board, for its promulgation into regulation, the (i)
192 criteria for the certification of surgical technologists and licensure of surgical assistants, and (ii)
193 standards relating to professional conduct, for holders of licenses and certifications.

194 2. That the initial appointments to the Advisory Board on Surgical Assistants shall be staggered
195 as follows: two members shall be appointed for four-year terms, two members shall be appointed
196 for three-year terms, and one member shall be appointed for a two-year term.

197 3. That, notwithstanding the provisions of this act, any individual who completes a surgical
198 assistant training program or a surgical technologist training program between July 1, 2012, and
199 July 1, 2013, may continue to practice as a surgical assistant or surgical technologist for one year
200 from the date of completion of such program before being required to be licensed or certified,
201 respectively, by the Board of Medicine.