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SENATE BILL NO. 1209

Offered January 9, 2019

Prefiled January 4, 2019

A *BILL to amend and reenact §§ 54.1-2900, 54.1-2951.1 through 54.1-2952.1, and 54.1-2953 of the Code of Virginia, relating to patient care team podiatrist definition; physician assistant definition and supervision requirements.*

 Patron—Peake

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, 54.1-2951.1 through 54.1-2952.1, and 54.1-2953 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2900. Definitions.

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

"Acupuncturist" means 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.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"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.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"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.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means an individual a health care professional who has met the requirements of

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59 the Board for licensure and who works under the supervision of a licensed doctor of medicine,
60 osteopathy, or podiatry.

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

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

78 "Practice of behavior analysis" means the design, implementation, and evaluation of environmental
79 modifications, using behavioral stimuli and consequences, to produce socially significant improvement in
80 human behavior, including the use of direct observation, measurement, and functional analysis of the
81 relationship between environment and behavior.

82 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
83 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
84 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
85 medicines, serums or vaccines. "Practice of chiropractic" shall include performing the physical
86 examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to
87 § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner
88 pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified
89 Medical Examiners.

90 "Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical
91 histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and
92 other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk
93 management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other
94 diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family
95 medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v)
96 evaluating the patient's and family's responses to the medical condition or risk of recurrence and
97 providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community
98 resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii)
99 providing written documentation of medical, genetic, and counseling information for families and health
100 care professionals.

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

103 "Practice of occupational therapy" means the therapeutic use of occupations for habilitation and
104 rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the
105 evaluation, analysis, assessment, and delivery of education and training in basic and instrumental
106 activities of daily living; the design, fabrication, and application of orthoses (splints); the design,
107 selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance
108 functional performance; vocational evaluation and training; and consultation concerning the adaptation of
109 physical, sensory, and social environments.

110 "Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical
111 conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical
112 and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of
113 the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the
114 metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility
115 accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of
116 lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and
117 ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital
118 or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The
119 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within
120 the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

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

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

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

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

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

"Respiratory care" means the practice of the allied health profession responsible for the direct and 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.

§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant.

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant that shall include the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and

3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. ~~Prior to initiating~~ Every physician assistant shall practice with a supervising physician, the physician assistant shall enter into a written or electronic practice agreement as part of a patient care

team and shall enter into a written or electronic practice agreement with at least one supervising physician patient care team physician or patient care team podiatrist.

C. A practice agreement shall include delegated activities acts pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for availability and ongoing communications collaboration and consultation among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.

A practice agreement may include provisions for periodic site visits by supervising licensees who supervise and direct assistants who provide services a patient care team physician or patient care team podiatrist who is part of the patient care team at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by the supervising a patient care team physician or patient care team podiatrist who is part of the patient care team.

D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to the Board upon request. The practice agreement may be maintained in writing or electronically, and may be a part of credentialing documents, practice protocols, or procedures.

§ 54.1-2951.2. Issuance of a license.

The Board shall issue the a license to the physician assistant to practice under the supervision of a licensed doctor of medicine, osteopathy, or podiatry, as part of a patient care team in accordance with § 54.1-2951.1.

§ 54.1-2951.3. Restricted volunteer license for certain physician assistants.

A. The Board may issue a restricted volunteer license to a physician assistant who meets the qualifications for licensure for physician assistants. The Board may refuse issuance of licensure pursuant to § 54.1-2915.

B. A person holding a restricted volunteer license under this section shall:

1. Only practice in public health or community free clinics approved by the Board;
2. Only treat patients who have no insurance or who are not eligible for financial assistance for medical care; and
3. Not receive remuneration directly or indirectly for practicing as a physician assistant.

C. A physician assistant with a restricted volunteer license issued under this section shall only practice as a physician assistant and perform certain delegated acts which constitute the practice of medicine to the extent and in the manner authorized by the Board if:

1. A patient care team physician who supervises physician assistants or patient care team podiatrist is available at all times to collaborate and consult with the physician assistant; or

2. The A patient care team physician supervising any physician assistant or patient care team podiatrist periodically reviews the relevant patient records.

D. A restricted volunteer license granted pursuant to this section shall be issued to the physician assistant without charge, shall expire twelve months from the date of issuance, and may be renewed annually in accordance with regulations promulgated by the Board.

E. A physician assistant holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the regulations promulgated under this chapter unless otherwise provided for in this section.

§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care teams; services that may be performed by physician assistants; responsibility of licensee; employment of physician assistants.

A. A patient care team physician or a patient care team podiatrist licensed under this chapter may supervise serve on a patient care team with physician assistants and delegate certain acts which constitute the shall provide collaboration and consultation to such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed to collaborate or consult with more than six physician assistants on a patient care team at any one time.

B. Physician assistants may practice of medicine to the extent and in the manner authorized by the Board. The physician shall provide continuous supervision as required by this section; however, the requirement for physician supervision of physician assistants shall not be construed as requiring the physical presence of the supervising physician during all times and places of service delivery by physician assistants A patient care team physician or patient care team podiatrist shall be available at all times to collaborate and consult with physician assistants. Each patient care team of supervising physician and physician assistant shall identify the relevant physician assistant's scope of practice, including the delegation of medical tasks as appropriate to the physician assistant's level of competence, the physician assistant's relationship with and access to the supervising physician, and an evaluation process for the physician assistant's performance.

C. Physician assistants appointed as medical examiners pursuant to § 32.1-282 shall be under the continuous supervision of only function as part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to

§ 32.1-282.

No licensee shall be allowed to supervise more than six physician assistants at any one time.

D. Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees which are supervised by one or more physicians or podiatrists may employ one or more physician assistants in accordance with the provisions of this section.

Activities shall be ~~delegated performed~~ in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a practice supervision agreement between the physician assistant and the ~~supervising patient care team~~ physician or ~~patient care team~~ podiatrist and may include health care services which are educational, diagnostic, therapeutic, or preventive, ~~or include including establishing a diagnosis, providing treatment, but shall not include the establishment of a final diagnosis or treatment plan for the patient unless set forth in the practice supervision agreement and performing procedures.~~ Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a licensee is authorized to delegate and supervise physician assistant may perform initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, ~~when performed under the direction, supervision and control of the supervising licensee.~~ When practicing in a hospital, the physician assistant shall report any acute or significant finding or change in a patient's clinical status to the ~~supervising patient care team~~ physician as soon as circumstances require and shall record such finding in appropriate institutional records. The physician assistant shall transfer to a ~~supervising the patient care team~~ physician the direction of care of a patient in an emergency department who has a life-threatening injury or illness. Prior to the patient's discharge, the services rendered to each patient by a physician assistant in a hospital's emergency department shall be reviewed in accordance with the practice agreement and the policies and procedures of the health care institution. A physician assistant who is employed to practice in an emergency department shall be ~~under the supervision of a physician practice only if a patient care team physician with whom the physician assistant has entered into a practice agreement that includes delegated acts related to the provision of medical care in an emergency department is present within the facility or as permitted in the medical staff bylaws.~~

Further, unless otherwise prohibited by federal law or by hospital bylaws, rules, or policies, nothing in this section shall prohibit any physician assistant who is not employed by the emergency physician or his professional entity from practicing in a hospital emergency department, within the scope of his practice, while under continuous physician supervision as required by this section, whether or not the supervising physician is physically present in the facility. The ~~supervising patient care team~~ physician who authorizes such practice by his ~~collaborates with a~~ physician assistant shall (i) retain exclusive supervisory control of and responsibility for the physician assistant and (ii) be available at all times for consultation and collaboration with both the physician assistant and the emergency department physician. Prior to the patient's discharge from the emergency department, the physician assistant shall communicate the proposed disposition plan for any patient under his care to both his ~~supervising the patient care team~~ physician and the emergency department physician. No person shall have ~~control of or supervisory~~ responsibility for any physician assistant who is not employed by the person or the person's business entity.

B. E. No physician assistant shall perform any ~~delegated acts except at the direction of the licensee and under his supervision and control beyond those set forth in the practice agreement or authorized as part of the patient care team.~~ No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient has signed the practice agreement, pursuant to regulations of the Board, to act as ~~supervising a~~ physician on a patient care team for that physician assistant. Every licensee, professional corporation or partnership of licensees, hospital, or commercial enterprise that employs a physician assistant shall be fully responsible for the acts of the physician assistant in the care and treatment of human beings.

C. F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working under the supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology as part of a patient care team, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.

§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician assistants.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed physician assistant shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.), provided that the physician

assistant has entered into and is, at the time of writing a prescription, a party to a practice agreement with a licensed *patient care team* physician or *patient care team* podiatrist that provides for the direction and supervision by such licensee of collaboration and consultation regarding the prescriptive practices of the physician assistant. Such practice agreements shall include a statement of the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the *patient care team* physician or *patient care team* podiatrist providing direction and supervision.

B. It shall be unlawful for the physician assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the practice agreement between the licensee and the assistant and the requirements in this section.

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency that may include continuing education, testing, and/or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients; and (ii) a requirement that the physician assistant disclose to his patients the his name, address, and telephone number of the supervising licensee and that he is a physician assistant. A separate office for the physician assistant shall not be established. If a patient or his representative requests to speak with the *patient care team* physician or *patient care team* podiatrist, the physician assistant shall arrange for communication between the parties or provide the necessary information.

D. This section shall not prohibit a licensed physician assistant from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

§ 54.1-2953. Renewal, revocation, suspension, and refusal.

The Board may revoke, suspend, or refuse to renew an approval a license to practice as a physician assistant for any of the following:

1. Any reason stated in this chapter for revocation or suspension of the license of a practitioner. Any action by a physician assistant constituting unprofessional conduct pursuant to § 54.1-2915;

2. Failure of the supervising licensee to supervise the physician assistant or failure of the employer to provide a licensee to supervise the Practice by a physician assistant other than as part of a *patient care team*, including practice without entering into a practice agreement with at least one *patient care team* physician or *patient care team* podiatrist;

3. The physician assistant's engaging in acts beyond the scope of authority as approved by the Board. Failure of the physician assistant to practice in accordance with the requirements of his practice agreement;

4. Negligence or incompetence on the part of the physician assistant or the supervising licensee in his use of the physician assistant other member of the *patient care team* under his supervision;

5. Violating Violation of or cooperating with others cooperation in violating the violation of any provision of this chapter or the any statutes and regulations of the Board; or

6. A change in the Board's requirements for approval with which the Failure to comply with any regulation of the Board required for licensure of a physician assistant or the licensee does not comply.