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SENATE BILL NO. 1547

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.23 and 54.1-2957.24, relating to music therapy.

Patrons—Vogel; Delegate: Rasoul

Referred to Committee on General Laws and Technology

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 in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.23 and 54.1-2957.24 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.

"Music therapist" means any person licensed by the Board to engage in the practice of music therapy.

"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.

"Physician assistant" means an individual who has met the requirements of the Board for licensure

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

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

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

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

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

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

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

102 "*Practice of music therapy*" means the clinical and evidence-based use of music interventions to
103 accomplish individualized goals within a therapeutic relationship through an individualized music
104 therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the
105 music therapy services appropriate for the client using music therapy interventions, which may include
106 music improvisation, receptive music listening, songwriting, lyric discussion, music and imagery, music
107 performance, learning through music, and movement to music. "*Practice of music therapy*" does not
108 include the diagnosis of any physical, mental, or communication disorder.

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

116 "Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical
117 conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical
118 and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of
119 the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the
120 metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility

121 accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of
 122 lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and
 123 ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital
 124 or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The
 125 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within
 126 the scope of practice of podiatry.

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

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

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

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

158 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
 159 dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27
 160 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic
 161 procedures employing equipment that emits ionizing radiation that is limited to specific areas of the
 162 human body.

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

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

176 **§ 54.1-2957.23. Music therapy; licensure.**

177 *A. The Board shall adopt regulations governing the practice of music therapy, upon consultation*
 178 *with the Advisory Board on Music Therapy. The regulations shall (i) set forth the requirements for*
 179 *licensure to practice music therapy, (ii) provide for appropriate application and renewal fees, and (iii)*
 180 *include requirements for licensure renewal and continuing education.*

181 *B. No person shall engage in the practice of music therapy or hold himself out or otherwise*

182 represent himself as a music therapist unless he is licensed by the Board.

183 C. An applicant for licensure as a music therapist shall submit evidence satisfactory to the Board
184 that he (i) holds a bachelor's degree or higher in music therapy, or its equivalent, from a program
185 approved by the American Music Therapy Association or any successor organization within an
186 accredited college or university; (ii) has successfully completed a minimum of 1,200 hours of clinical
187 training, with at least 180 hours in pre-internship experiences and at least 900 hours in internship
188 experiences, provided that the internship has been approved by an academic institution or the American
189 Music Therapy Association, or any successor organization, or both; and (iii) has passed the examination
190 for board certification offered by the Certification Board for Music Therapists or any successor
191 organization or is currently certified by the Certification Board for Music Therapists or any successor
192 organization.

193 D. Nothing in this section shall prohibit (i) the practice of music therapy by a student pursuing a
194 course of study in music therapy in a program approved by the American Music Therapy Association or
195 any successor organization within an accredited college or university or under the supervision of a
196 person licensed as a music therapist, if such practice constitutes a part of the student's course of study
197 and is adequately supervised or (ii) a licensed health care provider, other professional registered,
198 certified, or licensed in the Commonwealth, or any person whose training and national certification
199 attests to his preparation and ability to practice his certified profession or occupation, from engaging in
200 the full scope of his practice, including the use of music incidental to his practice, provided that he does
201 not represent himself as a music therapist.

202 **§ 54.1-2957.24. Advisory Board on Music Therapy; established; membership; terms.**

203 A. The Advisory Board on Music Therapy (Advisory Board) is established as an advisory board in
204 the executive branch of state government. The Advisory Board shall assist the Board of Medicine in
205 formulating regulations related to the practice of music therapy. The Advisory Board shall also assist in
206 such other matters relating to the practice of music therapy as the Board may require.

207 B. The Advisory Board shall have a total membership of five nonlegislative citizen members to be
208 appointed by Governor, subject to confirmation by the General Assembly, as follows: three members
209 shall be licensed music therapists, one member shall be a licensed health care provider other than a
210 music therapist, and one member shall be a citizen at large.

211 C. After the initial staggering of terms, members shall be appointed for a term of four years.
212 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All
213 members may be reappointed. However, no member shall serve more than two consecutive four-year
214 terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute
215 a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same
216 manner as the original appointments.