

20105638D

HOUSE BILL NO. 1683

Offered January 17, 2020

A BILL to amend and reenact §§ 54.1-2900 and 54.1-2901 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 through 54.1-2957.28, relating to diagnostic medical sonography, licensure; civil penalty.

Patron—Hope

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900 and 54.1-2901 of the Code of Virginia are 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 through 54.1-2957.28 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.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Diagnostic medical sonographer" means a person, including a cardiovascular or vascular technologist, certified and registered by a sonography certification organization and licensed pursuant to § 54.1-2957.26 to engage in the practice of diagnostic medical sonography.

"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.

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

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

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

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

71 "Physician assistant" means a health care professional who has met the requirements of the Board for
72 licensure as a physician assistant.

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

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

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

94 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
95 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
96 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
97 medicines, serums or vaccines. "Practice of chiropractic" shall include performing the physical
98 examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to
99 § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner
100 pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified
101 Medical Examiners.

102 "Practice of diagnostic medical sonography" means the use of specialized equipment to direct
103 high-frequency sound waves into an area of the human body to generate an image. "Practice of
104 diagnostic medical sonography" includes the performance of diagnostic medical sonography and any
105 related procedure (i) authorized or prescribed by a person licensed to practice medicine or osteopathy
106 or (ii) prescribed by another licensed health care professional authorized by the Commonwealth to
107 prescribe a sonography or related procedure.

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

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

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

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

182 guidelines adopted by the American College of Radiology, the American Society of Radiologic
183 Technologists, and the American Registry of Radiologic Technologists.

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

188 **§ 54.1-2901. Exceptions and exemptions generally.**

189 A. The provisions of this chapter shall not prevent or prohibit:

190 1. Any person entitled to practice his profession under any prior law on June 24, 1944, from
191 continuing such practice within the scope of the definition of his particular school of practice;

192 2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice
193 in accordance with regulations promulgated by the Board;

194 3. Any licensed nurse practitioner from rendering care in accordance with the provisions of
195 §§ 54.1-2957 and 54.1-2957.01 or any nurse practitioner licensed by the Boards of Medicine and
196 Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957
197 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and
198 Nursing;

199 4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician,
200 *diagnostic medical sonographer*, or other technical personnel who have been properly trained from
201 rendering care or services within the scope of their usual professional activities which shall include the
202 taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes
203 when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse
204 practitioner, or a physician assistant;

205 5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his
206 usual professional activities;

207 6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by
208 him, such activities or functions as are nondiscretionary and do not require the exercise of professional
209 judgment for their performance and which are usually or customarily delegated to such persons by
210 practitioners of the healing arts, if such activities or functions are authorized by and performed for such
211 practitioners of the healing arts and responsibility for such activities or functions is assumed by such
212 practitioners of the healing arts;

213 7. The rendering of medical advice or information through telecommunications from a physician
214 licensed to practice medicine in Virginia or an adjoining state, or from a licensed nurse practitioner, to
215 emergency medical personnel acting in an emergency situation;

216 8. The domestic administration of family remedies;

217 9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in
218 public or private health clubs and spas;

219 10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists
220 or druggists;

221 11. The advertising or sale of commercial appliances or remedies;

222 12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or
223 appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant
224 bracer or prosthetist for the purpose of having a three-dimensional record of the deformity, when
225 such bracer or prosthetist has received a prescription from a licensed physician, licensed nurse
226 practitioner, or licensed physician assistant directing the fitting of such casts and such activities are
227 conducted in conformity with the laws of Virginia;

228 13. Any person from the rendering of first aid or medical assistance in an emergency in the absence
229 of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

230 14. The practice of the religious tenets of any church in the ministration to the sick and suffering by
231 mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for
232 compensation;

233 15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally
234 licensed practitioners in this Commonwealth;

235 16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable
236 regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia
237 temporarily and such practitioner has been issued a temporary authorization by the Board from
238 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
239 camp or in conjunction with patients who are participating in recreational activities, (ii) while
240 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
241 site any health care services within the limits of his license, voluntarily and without compensation, to
242 any patient of any clinic which is organized in whole or in part for the delivery of health care services
243 without charge as provided in § 54.1-106;

17. The performance of the duties of any active duty health care provider in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States at any public or private health care facility while such individual is so commissioned or serving and in accordance with his official military duties;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks; or

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

§ 54.1-2957.23. Diagnostic medical sonographer; definitions.

As used in this section and §§ 54.1-2957.24 through 54.1-2957.28, unless the context requires a different meaning:

"Advanced diagnostic medical sonographer" means a diagnostic medical sonographer who performs advanced or expanded diagnostic medical sonography or related procedures under the supervision of a physician, in accordance with the written policies, parameters, or requirements of the facility where the procedure is performed and, if the policy is publicly available for at least two years, is additionally certified and registered by a certification organization in the advanced sonography specialization being performed.

"Business entity" means a corporation, partnership, association, limited liability company, limited liability partnership, or other legal entity recognized by the Commonwealth.

"Certification organization" means a national certification organization that specializes in the certification and registration of diagnostic medical sonographers and is accredited by the National Commission for Certifying Agencies or American National Standards Institute.

"National practitioner data bank" or "NPDB" means the electronic information repository established by Congress pursuant to § 6403 of the federal Patient Protection and Affordable Care Act of 2010, P.L. 111-148, which contains information on medical malpractice payments and certain adverse actions related to health care practitioners, entities, providers, and suppliers.

"Specialization" means a medical specialty area with a corresponding sonography certification from a certification organization.

§ 54.1-2957.24. Diagnostic medical sonography; regulation of practice; certification and registration required; exceptions.

A. Except as provided in this section, on and after January 1, 2022, only a person currently certified and registered in sonography by a certification organization may perform, offer to perform, or state or imply that the person is certified or registered to perform a diagnostic medical sonography or related procedure on a human or human fetus.

B. Except as provided in this section, on and after January 1, 2022, no person or business entity shall knowingly employ a person who does not hold a current certification and registration or is not exempt under this section to perform a diagnostic medical sonography procedure on a human or human fetus.

C. The provisions of this section shall not apply to:

1. A physician performing diagnostic medical sonography procedures.

2. A resident physician or student enrolled in and attending a school or college of medicine or osteopathy who performs an authorized diagnostic medical sonography procedure on a human or human fetus while under the supervision of a physician or direct supervision of a person holding a certification and registration in diagnostic medical sonography in the same area of specialization.

3. A student enrolled in and attending a diagnostic medical sonography educational program who performs an authorized diagnostic medical sonography procedure on a human or human fetus while under the supervision of a physician or direct supervision of a person holding a certification and registration in diagnostic medical sonography in the same area of specialization.

4. A person licensed in the Commonwealth as a radiologic technologist who is completing the clinical experience requirements for a sonography certification pathway established by a certification organization and is under the supervision of a physician or direct supervision of a person holding a certification and registration in the same area of specialization.

5. A person who is:

a. A graduate, within the previous 18 months, of a diagnostic medical sonography school or institute of higher education accredited by an organization recognized by the Council for Higher Education Accreditation and the U.S. Department of Education, or by Accreditation Canada;

b. Actively preparing for a sonography examination administered by a certification organization; and

c. Under the supervision of a physician or direct supervision of a person holding a certification and registration in the same area of specialization.

6. A person who is employed by the United States government to perform a diagnostic medical sonography procedure associated with that employment.

7. A person licensed in the Commonwealth who is performing a sonography procedure within his scope of practice, education, training, and competence that is used to assess specific and limited information about a patient's immediate medical condition, is limited to a focused imaging target, and does not generate a recorded diagnostic medical image. A focused imaging target includes, but is not limited to:

a. Assessment of fetal presentation or heartbeat;

b. Assessment of fluid in a body cavity;

c. Assessment of foreign body position or location;

d. Fetal monitoring during active labor; or

e. Identification of an anatomical landmark or blood vessel for vascular access or administration of anesthesia.

8. An ophthalmic medical technologist using ultrasound for ophthalmic purposes (e.g., ultrasound biometry) within his scope of practice, education, training, and competence.

9. A person performing a diagnostic medical sonography procedure on a nonhuman subject or a human cadaver (e.g., for research purposes).

10. A person licensed in the Commonwealth performing a medical procedure on a human using ultrasound or ultrasound-emitting equipment for a nonimaging purpose (e.g., lithotripsy, tissue heating or healing) that is within such person's scope of practice, education, training, and competence.

§ 54.1-2957.25. Limitations; scope of practice; authorizations.

A. A person may perform a diagnostic medical sonography or related procedure on a human or human fetus only:

1. With a valid prescription of a person authorized by the Commonwealth to prescribe a diagnostic medical sonography or related procedure;

2. Under the supervision of a physician; and

3. Within the person's scope of practice, education, training, and competence.

B. A person performing a diagnostic medical sonography or related procedure shall perform such procedure under a scope of practice established by a certification organization or a professional society or association and within the written policies, parameters, or requirements of the facility where the procedure is performed.

C. A person holding a certification and registration in diagnostic medical sonography may initiate, maintain, and remove intravenous access and may administer an intravenous fluid, ultrasound contrast agent, or other drugs required for a diagnostic medical sonography or related procedure under the person's scope of practice, education, training, and competence, and under the written policies, parameters, or requirements of the facility where the procedure is performed.

§ 54.1-2957.26. Licensure equivalence.

A person who holds a sonography certification and registration in accordance with the provisions of §§ 54.1-2957.23 through 54.1-2957.28 and the regulations adopted by the Board shall be deemed licensed by the Commonwealth for other applicable statutes or regulations and may represent himself or be referred to as licensed by the Commonwealth.

§ 54.1-2957.27. Failure to maintain certification and registration; false use or misrepresentation.

A. If a person fails to maintain current certification and registration or is subject to revocation or suspension of a certification and registration by a sonography certification organization, the person shall notify his employer and shall not use ultrasound equipment or perform a diagnostic medical sonography or related procedure.

B. No person shall falsely use or misrepresent a title, word, abbreviation, or insignia to indicate or imply that the person is certified or registered or is authorized by §§ 54.1-2957.23 through 54.1-2957.28 to perform a diagnostic medical sonography or related procedure.

§ 54.1-2957.28. Regulations; violations; injunctive relief; civil penalties.

A. The Board shall adopt regulations that specify the threshold for required reporting of noncompliance with §§ 54.1-2957.23 through 54.1-2957.28 or regulations adopted by the Board by a person or business entity resulting from a legal, civil, or disciplinary action against the person by any:

1. Business entity;

2. Certification organization;

428 3. Court;
429 4. Educational institution;
430 5. Government agency;
431 6. Health care institution;
432 7. Law-enforcement agency;
433 8. Licensing jurisdiction, whether inside or outside the United States; or
434 9. Professional society or association.
435 B. The Board shall adopt regulations that specify the threshold for required and optional reporting
436 of an action against a person to the NPDB and an applicable certification organization or licensing
437 jurisdiction.
438 C. A person who holds or has held a sonography certification and registration shall notify the
439 Board, applicable certification organization, and his employer within seven days of any legal, civil, or
440 disciplinary action against the person if such action meets or exceeds the threshold reporting
441 requirements established by regulation by the Board.
442 D. A business entity that employs a person who holds or has held a sonography certification and
443 registration shall notify the Board and applicable certification organization or licensing jurisdiction
444 within seven days of any legal, civil, or disciplinary action against the person by the employer that
445 meets or exceeds the threshold reporting requirements established by regulation by the Board.
446 E. The Board may require a person who is subject to §§ 54.1-2957.23 through 54.1-2957.28 or
447 regulations adopted by the Board to notify the applicable certification organization that the person is
448 performing sonography and deemed licensed in the Commonwealth.
449 F. A person or business entity that violates §§ 54.1-2957.23 through 54.1-2957.28 or regulations
450 adopted by the Board may be subject to a monetary penalty or consent agreement, as determined by the
451 Board pursuant to § 54.1-202. The penalty may be sued for and recovered in the name of the
452 Commonwealth.
453 G. Before imposing and assessing a monetary penalty, the Board shall consider the following
454 factors:
455 1. The nature, gravity, and persistence of the violation;
456 2. The appropriateness of imposing a monetary penalty when considered alone or combined with
457 another punishment;
458 3. Whether the violation was willful and malicious; and
459 4. Any other factors that would mitigate or aggravate the violations found to exist.
460 H. The Board may apply to any court for an order to enjoin a person or business entity from a
461 violation of §§ 54.1-2957.23 through 54.1-2957.28 or regulations adopted by the Board or from
462 endangering the health or safety of the citizens or others within the Commonwealth.
463 I. Upon a showing by the Board that a person or business entity has violated any provision of
464 §§ 54.1-2957.23 through 54.1-2957.28 or regulations adopted by the Board or has endangered or will
465 endanger the health or safety of others within the Commonwealth, the court may grant an injunction or
466 restraining order or may take another action deemed necessary by the court.