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SENATE BILL NO. 406

Offered January 22, 1996

A BILL to amend and reenact §§ 54.1-2900, as it is effective and as it may become effective, and 54.1-2956.9 of the Code of Virginia, relating to the practice of acupuncture.

 Patron—Lambert

 Referred to the Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, as it is effective and as it may become effective, and 54.1-2956.9 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2900. (Effective until January 1, 1997) Definitions.

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

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

"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 an approved chemical dependency treatment program, under the appropriate supervision of a licensed physician acupuncturist or licensed acupuncturist.

"Board" means the Board of Medicine.

"Certified optometrist" means an optometrist who is licensed under Chapter 32 of this title and who has successfully completed the requirements for certification established by the Board of Medicine. Such certification shall enable an optometrist to treat certain diseases, including abnormal conditions, of the human eye and its adnexa, as specified by the Board of Medicine, with certain therapeutic pharmaceutical agents specified by the Board. However, such certification shall not permit treatment through surgery or other invasive modalities.

"Clinical psychologist" means a psychologist who is competent in the diagnosis, prevention, treatment and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental conditions, by the application of psychological principles, psychological methods, or psychological procedures, including but not limited to psychological assessment and evaluation and psychotherapy, which does not amount to the practice of medicine. This definition shall not be construed to limit or restrict any person licensed by a health regulatory board as defined in § 54.1-2500 from rendering services which he is licensed to provide.

"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.

"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 moxabustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, the use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums or vaccines, nor the procedure of auricular acupuncture as exempted in § 54.1-2901 when used specifically and exclusively in the context of a publicly supported comprehensive drug treatment program by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association.

"Practice of chiropractic" means the adjustment of the twenty-four movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines.

"Practice of clinical psychology" means the offering by an individual of his services to the public as a clinical psychologist.

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

"Practice of physical therapy" means, upon medical referral and direction, the evaluation, testing,

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60 treatment, reeducation and rehabilitation by physical, mechanical or electronic measures and procedures
61 of individuals who, because of trauma, disease or birth defect, present physical and emotional disorders,
62 but does not include the use of Roentgen rays and radium for diagnostic or therapeutic purposes or the
63 use of electricity for shock therapy and surgical purposes including cauterization.

64 "Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the
65 human foot and ankle, but does not include amputation proximal to the metatarsal-phalangeal joints. The
66 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within
67 the scope of practice of podiatry.

68 § 54.1-2900. (Effective January 1, 1997) Definitions.

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

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

76 "Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles
77 in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the
78 context of an approved chemical dependency treatment program, under the appropriate supervision of a
79 licensed physician acupuncturist or licensed acupuncturist.

80 "Board" means the Board of Medicine.

81 "Certified optometrist" means an optometrist who is licensed under Chapter 32 (§ 54.1-3200 et seq.)
82 of this title and who has successfully completed the requirements for certification established by the
83 Board of Medicine. Such certification shall enable an optometrist to treat certain diseases, including
84 abnormal conditions, of the human eye and its adnexa, as specified by the Board of Medicine, with
85 certain therapeutic pharmaceutical agents specified by the Board. However, such certification shall not
86 permit treatment through surgery or other invasive modalities.

87 "Clinical psychologist" means a psychologist who is competent in the diagnosis, prevention, treatment
88 and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental
89 conditions, by the application of psychological principles, psychological methods, or psychological
90 procedures, including but not limited to psychological assessment and evaluation and psychotherapy,
91 which does not amount to the practice of medicine. This definition shall not be construed to limit or
92 restrict any person licensed by a health regulatory board as defined in § 54.1-2500 from rendering
93 services which he is licensed to provide.

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

96 "Practice of acupuncture" means the stimulation of certain points on or near the surface of the body
97 by the insertion of needles to prevent or modify the perception of pain or to normalize physiological
98 functions, including pain control, for the treatment of certain ailments or conditions of the body and
99 includes the techniques of electroacupuncture, cupping and moxabustion. The practice of acupuncture
100 does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, the use
101 or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums or
102 vaccines, nor the procedure of auricular acupuncture as exempted in § 54.1-2901 when used specifically
103 and exclusively in the context of a publicly supported comprehensive drug treatment program by an
104 employee of the program who is trained and approved by the National Acupuncture Detoxification
105 Association.

106 "Practice of chiropractic" means the adjustment of the twenty-four movable vertebrae of the spinal
107 column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does
108 not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
109 medicines, serums or vaccines.

110 "Practice of clinical psychology" means the offering by an individual of his services to the public as
111 a clinical psychologist.

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

114 "Practice of physical therapy" means, upon medical referral and direction, the evaluation, testing,
115 treatment, reeducation and rehabilitation by physical, mechanical or electronic measures and procedures
116 of individuals who, because of trauma, disease or birth defect, present physical and emotional disorders,
117 but does not include the use of Roentgen rays and radium for diagnostic or therapeutic purposes or the
118 use of electricity for shock therapy and surgical purposes including cauterization.

119 "Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the
120 human foot and ankle, but does not include amputation proximal to the metatarsal-phalangeal joints. The
121 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within

122 the scope of practice of podiatry.

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

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

133 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
134 dental hygienist or who is otherwise authorized by the Board of Dentistry under Chapter 27 of this title
135 and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing
136 equipment which emits ionizing radiation which is limited to specific areas of the human body.

137 § 54.1-2956.9. Unlawful to practice acupuncture without license; unlawful designation as
138 acupuncturist; Board to regulate acupuncturists.

139 It shall be unlawful for a person to practice or to hold himself out as practicing as an acupuncturist
140 unless he holds a license as such issued by the Board.

141 In addition, it shall be unlawful for any person who is not licensed under this chapter, whose
142 licensure has been suspended or revoked, or whose licensure has lapsed and has not been renewed to
143 use in conjunction with his name the words "licensed acupuncturist" or to otherwise by letters, words,
144 representations, or insignias assert or imply that he is licensed to practice acupuncture.

145 The Board of Medicine shall prescribe by regulation the qualifications governing the licensure of
146 acupuncturists. Such regulations shall not restrict the practice of this profession to practitioners regulated
147 by the Board on June 30, 1992, to practice the healing arts. The regulations shall at a minimum require
148 that, prior to performing acupuncture, any acupuncturist who is not licensed to practice medicine,
149 osteopathy, *chiropractic* or podiatry shall obtain written documentation that the patient had received a
150 diagnostic examination from and had been referred by a licensed physician with regard to the ailment or
151 condition to be treated. The regulations may include requirements for approved education programs,
152 experience, examinations, periodic review of the diagnosis and treatment progress, and referral and
153 rereferral of patients.