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SENATE BILL NO. 614

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on February 27, 1996)

(Patron Prior to Substitute—Senator Lambert)

A BILL to amend and reenact § 54.1-2900, as it is currently effective and as it may become effective, and §§ 54.1-2954, 54.1-2954.1, 54.1-2955, 54.1-2956 and 54.1-3408 of the Code of Virginia, relating to respiratory care practitioners.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900, as it is currently effective and as it may become effective, and §§ 54.1-2954, 54.1-2954.1, 54.1-2955, 54.1-2956 and 54.1-3408 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 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 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,

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 "Practice of respiratory care" includes but is not limited to, the administration of pharmacological,
69 diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a
70 treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a
71 practitioner of medicine or osteopathic medicine; the transcription and implementation of the written or
72 verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of
73 respiratory care; the observation and monitoring of signs and symptoms, general behavior, general
74 physical response to respiratory care treatment and diagnostic testing, including determination of
75 whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal
76 characteristics; and the implementation of respiratory care procedures, based on observed
77 abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment
78 pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine;
79 or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise permitted
80 by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing
81 facility, private dwelling or other place deemed appropriate by the Board in accordance with the written
82 or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under
83 qualified medical direction.

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

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

93 § 54.1-2900. (Effective January 1, 1997) Definitions.

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

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

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

105 "Board" means the Board of Medicine.

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

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

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

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

"Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation proximal to the metatarsal-phalangeal joints. 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 x-rays to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" includes but is not limited to, the 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; the transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; the 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 the 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 permitted 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 care practitioner 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 care practitioner.

"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.) of this title, who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope of diagnostic radiologic procedures employing equipment which emits 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 or other procedures which 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 who is otherwise authorized by the Board of Dentistry under Chapter 27 of this title and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment which emits ionizing radiation which is limited to specific areas of the human body.

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

187 § 54.1-2954. Respiratory care practitioner; definition.

188 ~~"Certified respiratory therapy~~ *Respiratory care practitioner* means a person who has passed the
189 ~~certification examination for the entry level practice of respiratory therapy care~~ administered by the
190 National Board for Respiratory Care, Inc., or other examination approved by the Board, who has
191 complied with the regulations pertaining to ~~certification~~ *licensure* prescribed by the Board, and who has
192 been issued a ~~certificate~~ *license* by the Board.

193 § 54.1-2954.1. Powers of Board concerning respiratory care.

194 The Board shall be ~~empowered~~ to take such actions as may be necessary to ensure the competence
195 and integrity of any person who claims to be a respiratory ~~therapy care~~ practitioner or , who holds
196 himself out to the public as a respiratory ~~therapy care~~ practitioner and to that end it may certify persons
197 as respiratory ~~therapy~~ practitioners or who engages in practice of respiratory care. The Board shall
198 establish requirements for supervised, structured education of respiratory care practitioners, including
199 preclinical didactic and laboratory activities, clinical activities, and an examination to evaluate
200 competency. All such training programs shall be approved by the Board.

201 § 54.1-2955. Unlawful to practice respiratory care without a license; unlawful designation.

202 ~~It~~*Except as set forth herein,* it shall be unlawful for any person ~~not holding a current and valid~~
203 ~~certificate from the State Board of Medicine to claim to be a to practice respiratory therapy practitioner~~
204 ~~or to assume the title care unless licensed by the Board of Medicine. It shall also be unlawful for any~~
205 ~~person not holding a current and valid license from the Board to use, in conjunction with his name, the~~
206 ~~letters or words "RCP," or "Respiratory Therapist Care Practitioner," "Respiratory Therapist,~~
207 ~~Registered," "Certified Respiratory Therapist," "Respiratory Therapist Practitioner," "Respiratory~~
208 ~~Practitioner," or "Certified Respiratory Therapy Practitioner," or any similar term or to assume the~~
209 ~~designations "R.T.," "R.T.R.," "C.R.T.," "R.T.P.," "R.P." or "C.R.T.P." However, a person who has~~
210 ~~graduated from a duly accredited educational program in respiratory therapy shall be exempt from the~~
211 ~~preceding prohibition until he has taken and received the results of an examination required by the~~
212 ~~Board or until one year from the date of graduation, whichever occurs sooner. This section shall not be~~
213 ~~construed to prohibit any person from claiming to practice respiratory therapy using the title~~
214 ~~"Respiratory Therapy Assistant, R.T.A." or other titles licensed or certified by the Commonwealth. The~~
215 ~~provisions of this section shall not apply to any employee of a hospital operated by the Commonwealth~~
216 ~~or licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, acting within the scope~~
217 ~~of his employment or engagement to provide respiratory care on the premises of such hospital.~~

218 § 54.1-2956. Advisory Board on Respiratory Therapy; appointment; terms; duties; etc.

219 A. The Advisory Board on Respiratory Therapy shall assist the Board in carrying out the provisions
220 of this chapter regarding the qualifications, examination, ~~registration~~ , *licensure* and regulation of
221 ~~certified respiratory therapy care~~ practitioners.

222 The Advisory Board shall consist of five members appointed by the Governor for four-year terms.
223 Three members shall be at the time of appointment respiratory ~~therapy care~~ practitioners who have
224 practiced for not less than three years, one member shall be a physician licensed to practice medicine in
225 the Commonwealth, and one member shall be appointed by the Governor from the Commonwealth at
226 large.

227 Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No
228 person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

229 B. The Advisory Board shall, under the authority of the Board, recommend to the Board for its
230 ~~enactment into regulation promulgation as regulations~~ the criteria for ~~certification~~ *licensure* as a
231 respiratory ~~therapy care~~ practitioner and the standards of professional conduct for holders of ~~certificates~~
232 *such licenses*.

233 The Advisory Board shall also assist in such other matters dealing with respiratory ~~therapy care~~ as
234 the Board may in its discretion direct.

235 § 54.1-3408. Professional use by practitioners.

236 A. A practitioner of medicine, osteopathy, podiatry, or dentistry, a licensed nurse practitioner
237 pursuant to § 54.1-2957.01 or a licensed physician's assistant pursuant to § 54.1-2952.1 shall only
238 prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic
239 purposes within the course of his professional practice. The practitioner may prescribe, on a written
240 prescription or on oral prescription as authorized by this chapter, and administer drugs and devices, or
241 he may cause them to be administered by a nurse or intern under his direction and supervision, or a
242 practitioner may prescribe and cause drugs and devices to be administered to patients in state-owned or
243 state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals
244 licensed by the State Mental Health, Mental Retardation and Substance Abuse Services Board by other

persons who have been trained to properly administer drugs and who administer drugs only under the control and supervision of the practitioner or a pharmacist.

A practitioner may authorize persons licensed to practice respiratory care pursuant to § 54.1-2955 to administer controlled substances used in inhalation or respiratory therapy.

A practitioner may authorize registered nurses and licensed practical nurses to possess epinephrine for administration in treatment of emergency medical conditions pursuant to an oral or written order or standing protocol issued by a practitioner within the course of his professional practice.

A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent certified by the Board of Dentistry who has satisfactorily completed a training program for this purpose that is approved by the Board of Dentistry.

No written prescription order form shall include more than one prescription. This provision shall not apply, however, to the entry of any order on a patient's chart in any hospital or any long-term care facility, as defined in Board regulations, in Virginia or to a prescription ordered through the pharmacy operated by the Department of Corrections, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Such a prescription shall be written, dated, and signed by the person prescribing on the day when issued, and shall bear the full name and address of the patient for whom the drug is prescribed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered.

This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration, when the drugs administered would be normally self-administered by (i) a resident of a facility licensed or certified by the State Mental Health, Mental Retardation and Substance Abuse Services Board; (ii) a resident of any adult care residence which is licensed by the Department of Social Services; (iii) a resident of the Virginia Rehabilitation Center for the Blind; (iv) a resident of a facility approved by the Board or Department of Youth and Family Services for the placement of children in need of services or delinquent or alleged delinquent youth; or (v) a program participant of an adult day care center licensed by the Department of Social Services.

This section shall not interfere with any practitioner issuing prescriptions in compliance with the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such practitioner shall be deemed to be valid prescriptions. This section shall not prohibit a practitioner from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

B. The written prescription referred to in subsection A of this section shall be written with ink or individually typed and each prescription shall be manually signed by the practitioner. The prescription may be prepared by an agent for his signature. The prescription shall contain the name, address, telephone number, and federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand.

C. Pursuant to § 32.1-87, the prescription form shall include two boxes, one labelled "Voluntary Formulary Permitted" and the other labelled "Dispense As Written." A prescriber may indicate his permission for the dispensing of a drug product included in the Formulary upon signing a prescription form and marking the box labelled "Voluntary Formulary Permitted." A Voluntary Formulary product shall be dispensed if the prescriber fails to indicate his preference. If no Voluntary Formulary product is immediately available, or if the patient objects to the dispensing of a generic drug, the pharmacist may dispense a brand name drug. On and after July 1, 1993, printed prescription forms shall provide:

" ☐ Dispense As Written
☐ Voluntary Formulary Permitted
.....
Signature of prescriber

If neither box is marked, a Voluntary Formulary product must be dispensed."

D. Practitioners' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications

306 device over telephone lines which send the exact image to the receiver in hard-copy form, and such
307 facsimile copy shall be treated as a valid, original prescription order.