

# VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

## CHAPTER 557

*An Act to amend and reenact §§ 54.1-2900, 54.1-2954, 54.1-2954.1, 54.1-2955, and 54.1-2956 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2956.01, relating to respiratory care.*

[S 665]

Approved April 15, 1998

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2900, 54.1-2954, 54.1-2954.1, 54.1-2955, and 54.1-2956 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2956.01 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, 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.

"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 moxibustion. 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 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" 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 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.

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

§ 54.1-2954. Respiratory care practitioner; definition.

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

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

The Board shall ~~be empowered~~ to take such actions as may be necessary to ensure the competence and integrity of any person who claims to be a respiratory ~~therapy~~ care practitioner or who holds himself out to the public as a respiratory ~~therapy~~ care practitioner or who engages in the practice of respiratory care and to that end ~~it~~ the Board may ~~certify~~ shall license persons as respiratory ~~therapy~~ care practitioners. *The provisions hereof shall not prevent or prohibit other persons licensed pursuant to this chapter from continuing to practice respiratory care when such practice is in accordance with regulations promulgated by the Board.*

*The Board shall establish requirements for the supervised, structured education of respiratory care practitioners, including preclinical, didactic and laboratory, and clinical activities, and an examination to evaluate competency. All such training programs shall be approved by the Board.*

§ 54.1-2955. Restriction of titles.

It shall be unlawful for any person not holding a current and valid ~~certificate~~ license from the State Board of Medicine to ~~claim to be a practice as a~~ respiratory ~~therapy~~ care practitioner or to assume the title "Respiratory Therapist," "Respiratory Therapist Care Practitioner" or to use, in conjunction with his name, the letters "RCP"; Registered," "Certified Respiratory Therapist," "Respiratory Therapist Practitioner," "Respiratory Practitioner," or "Certified Respiratory Therapy Practitioner," or any similar term or to assume the designations "R.T.," "R.T.R.," "C.R.T.," "R.T.P.," "R.P." or "C.R.T.P." However, a person who has graduated from a duly accredited educational program in respiratory therapy shall be exempt from the preceding prohibition until he has taken and received the results of an examination required by the Board or until one year from the date of graduation, whichever occurs sooner. This section shall not be construed to prohibit any person from claiming to practice respiratory therapy using the title "Respiratory Therapy Assistant, R.T.A." or other titles licensed or certified by the Commonwealth.

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

A. The Advisory Board on Respiratory ~~Therapy~~ Care shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, ~~registration~~ and regulation of

~~certified~~ *licensed* respiratory ~~therapy~~ care practitioners.

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

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

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

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

*§ 54.1-2956.01. Exceptions to respiratory care practitioner's licensure.*

*The licensure requirements for respiratory care practitioners provided herein shall not prohibit the practice of respiratory care as an integral part of a program of study by students enrolled in an accredited respiratory care education program approved by the Board. Any student enrolled in accredited respiratory care education programs shall be identified as "Student RCP" and shall only deliver respiratory care under the direct supervision of an appropriate clinical instructor recognized by the education program.*

**2. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of the enactment of this act; further, the Board shall notify all certificate holders of the change to licensure and shall, upon renewal of such individuals' certificates, provide such persons a license. This act shall not be construed to prohibit or impede the practice of any respiratory care by any individual holding a certificate as a respiratory care practitioner from the Board prior to July 1, 1998; any person holding a certificate to practice respiratory care prior to the effective date of the regulations of the Board of Medicine specified herein shall be deemed to be licensed thereafter.**