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SENATE BILL NO. 599

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on March 5, 1998)

(Patron Prior to Substitute—Senator Houck)

A BILL to amend and reenact §§ 54.1-2900, 54.1-2956.1, 54.1-2956.4, and 54.1-2956.5 of the Code of Virginia, relating to occupational therapy.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, 54.1-2956.1, 54.1-2956.4, and 54.1-2956.5 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, 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 occupational therapy" means the evaluation, analysis, assessment, and delivery of education and training in activities of daily living (ADL); the design, fabrication, and application of orthoses (splints); guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for individuals who have disabilities.

"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.

"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,

60 who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope
61 of diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is
62 delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of
63 patient and staff from unnecessary radiation, the appropriate exposure of radiographs or other procedures
64 which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is
65 exposed.

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

70 § 54.1-2956.1. Powers of Board concerning occupational therapy.

71 The Board shall be empowered to take such actions as may be necessary to ensure the competence
72 and integrity of any person who claims to be an occupational therapist or who holds himself out to the
73 public as an occupational therapist, and to that end it may ~~certify~~ *license* practitioners as occupational
74 therapists.

75 § 54.1-2956.4. Advisory Board of Occupational Therapy; powers.

76 The Advisory Board shall, under the authority of the Board:

77 1. Recommend to the Board for its enactment into regulation the criteria for ~~certification~~ *licensure* as
78 an occupational therapist and the standards of professional conduct for holders of ~~certificates~~ *licenses*.

79 2. Assess the qualifications of applicants for ~~certification~~ *licensure* and recommend ~~certification~~
80 *licensure* when applicants meet the required criteria. The recommendations of the Advisory Board on
81 ~~certification~~ *licensure* of applicants shall be presented to the Board, which shall then issue or deny
82 ~~certificates~~ *licenses*. Any applicant who is aggrieved by a denial of recommendation on ~~certification~~
83 *licensure* of the Advisory Board may appeal to the Board.

84 3. Receive investigative reports of professional misconduct and unlawful acts and recommend
85 sanctions when appropriate. Any recommendation of sanctions shall be presented to the Board, which
86 may then impose sanctions or take such other action as may be warranted by law.

87 4. Assist in such other matters dealing with occupational therapy as the Board may in its discretion
88 direct.

89 § 54.1-2956.5. Restriction of titles.

90 It shall be unlawful for any person not holding a current and valid ~~certificate~~ *license* from the Board
91 to claim to be an occupational therapist or to assume the title "Occupational Therapist," "Occupational
92 Therapist, ~~Registered Licensed~~," "~~Certified Licensed~~ Occupational Therapist," or any similar term, or to
93 assume the designations "O.T." or "O.T.R.L." However, a person who has graduated from a duly
94 accredited educational program in occupational therapy shall be exempt from the preceding prohibition
95 until he has taken and received the results of any examination required by the Board or until one year
96 from the date of graduation, whichever occurs sooner. This section shall not be construed to prohibit any
97 person operating under the supervision of an occupational therapist pursuant to such requirements as
98 may be imposed by the Board from claiming to practice occupational therapy or from using the title
99 "Certified Occupational Therapy Assistant" or any variation thereof, or from assuming the designations
100 "O.T.A." or "C.O.T.A."

101 2. That the Board of Medicine shall promulgate regulations to implement the provisions of this act
102 to be effective within 280 days of the enactment of this act; further, the Board shall notify all
103 certificate holders of the change to licensure and shall, upon renewal of such individual's
104 certificate, provide such person a license. This act shall not be construed to prohibit or impede the
105 practice of any occupational therapy by any individual holding a certificate as an occupational
106 therapist from the Board prior to July 1, 1998; any person holding a certificate to practice
107 occupational therapy prior to July 1, 1998, shall be deemed to be licensed thereafter.