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SENATE BILL NO. 328

Offered January 8, 2014

Prefiled January 6, 2014

A BILL to amend and reenact § 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2956.12, 54.1-2956.13, and 54.1-2956.14 , relating to surgical technologists and surgical assistants.

 Patron—Barker

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2956.12, 54.1-2956.13, and 54.1-2956.14 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, 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.

"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.

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

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

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

"Physician assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"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, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries

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59 or conditions related to athletic or recreational activity that requires physical skill and utilizes strength,
60 power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or
61 condition resulting from occupational activity immediately upon the onset of such injury or condition;
62 and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the
63 patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or
64 dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

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

69 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
70 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
71 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
72 medicines, serums or vaccines.

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

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

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

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

95 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
96 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
97 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
98 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
99 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
100 observation and monitoring of signs and symptoms, general behavior, general physical response to
101 respiratory care treatment and diagnostic testing, including determination of whether such signs,
102 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
103 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
104 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
105 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
106 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care
107 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
108 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
109 osteopathic medicine, and shall be performed under qualified medical direction.

110 "Practice of surgical assisting" means the performance of significant surgical tasks, including
111 manipulation of organs, manipulation or insertion of subcutaneous sutures, placement of hemostatic
112 agents, injection of local anesthetic, harvesting of veins, and implantation of devices, under the direct
113 supervision of a licensed doctor of medicine, osteopathy, or podiatry.

114 "Practice of surgical technology" means the maintenance of surgical instrument integrity from within
115 the surgical field during surgical procedures; performance of surgical support tasks, including
116 instrument and equipment transfers and counts and management of fluids, specimens, and supplies;
117 identification and correction of sepsis; and performance of other surgical tasks, as directed under the
118 supervision of and directed by a licensed health care provider.

119 "Qualified medical direction" means, in the context of the practice of respiratory care, having readily
120 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.), 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 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 which emits ionizing radiation which 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 guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"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.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Surgical technologist" means an individual who has met the requirements of the Board for certification as a surgical technologist and who works under the supervision of a licensed health care provider.

§ 54.1-2956.12. Advisory Board on Surgical Technology and Surgical Assisting; appointment; terms; duties.

A. The Advisory Board on Surgical Technology and Surgical Assisting shall assist the Board in carrying out the provisions of this chapter regarding the qualifications and regulation of certified surgical technologists and licensed surgical assistants.

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, surgical technologists or surgical assistants who have practiced for not less than three years; one member shall be a doctor of medicine, osteopathy, or podiatry; and one member shall be a citizen member appointed 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 promulgation into regulation (i) standards for continued certification of surgical technologists and continued licensure of surgical assistants, including continuing education requirements, and (ii) standards relating to professional conduct, termination, and reinstatement and renewal of certifications of surgical technologists and licenses of surgical assistants.

§ 54.1-2956.13. Certification of surgical technologist; application.

A. It shall be unlawful for any person to engage in the practice of surgical technology or to hold himself out as a surgical technologist unless he is certified as a surgical technologist by the Board.

B. An applicant for certification as a surgical technologist shall submit evidence satisfactory to the Board that he (i) holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor, (ii) has successfully completed a surgical technologist training program during the applicant's service as a member of any branch of the armed forces of the United States, or (iii) has practiced as a surgical technologist at any time in the six months prior to July 1, 2014.

C. Notwithstanding the provisions of subsection B, any individual who has successfully completed a

182 surgical technologist training program by July 1, 2015, may practice as a surgical technologist for a
183 period of 12 months following the date on which he completed such program without obtaining a
184 certificate from the Board. Thereafter, such individual shall be required to be certified by the Board.

185 D. The following shall not constitute the practice of surgical technology:

186 1. The practice of any student enrolled in a surgical technologist training program who practices
187 under the direct supervision of a licensed health care provider; or

188 2. Any procedure undertaken in a setting other than a hospital as defined in § 32.1-123 or facility
189 exempt from licensure pursuant to § 32.1-124.

190 E. Nothing in this section shall prohibit a health care provider licensed pursuant to this title from
191 engaging in the full scope of practice for which he is licensed.

192 **§54.1-2956.14. Licensure of surgical assistant; application.**

193 A. It shall be unlawful for any person to engage in the practice of surgical assisting or to hold
194 himself out as a surgical assistant unless he is licensed as a surgical assistant by the Board.

195 B. An applicant for licensure as a surgical assistant shall submit evidence satisfactory to the Board
196 that he (i) holds a current credential as a surgical assistant or surgical first assistant issued by the
197 American Board of Surgical Assistants, the National Board of Surgical Technology and Surgical
198 Assisting, or the National Surgical Assistant Association; (ii) has successfully completed a surgical
199 assistant training program during the applicant's service as a member of any branch of the armed
200 forces of the United States; or (iii) has practiced as a surgical technologist at any time in the six
201 months prior to July 1, 2014.

202 C. Notwithstanding the provisions of subsection B, any individual who has successfully completed a
203 surgical assistant training program by July 1, 2015, may practice as a surgical assistant for a period of
204 12 months following the date on which he completed such program without obtaining a license from the
205 Board. Thereafter, such individual shall be required to be licensed by the Board.

206 D. The following shall not constitute the practice of surgical technology:

207 1. The practice of any student enrolled in a surgical technologist training program who practices
208 under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry; or

209 2. Any procedure undertaken in a setting other than a hospital as defined in § 32.1-123 or facility
210 exempt from licensure pursuant to § 32.1-124.

211 E. Nothing in this section shall prohibit a health care provider licensed pursuant to this title from
212 engaging in the full scope of practice for which he is licensed.