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HOUSE BILL NO. 957

Offered January 13, 2016

Prefiled January 12, 2016

A *BILL to amend and reenact §§ 54.1-700 and 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.23, 54.1-2957.24, and 54.1-2957.25, relating to the Board of Medicine; licensure of laser hair removal technicians.*

 Patron—Keam

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-700 and 54.1-2900 of the Code of Virginia are amended and reenacted and that Code of Virginia is amended by adding in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.23, 54.1-2957.24, and 54.1-2957.25 as follows:

§ 54.1-700. Definitions.

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

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing school" means a place or establishment licensed by the Board to accept and train students in body-piercing.

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include hair braiding or such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of

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59 cosmetology.

60 "Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment,
61 place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may
62 include the training of apprentices under regulations of the Board.

63 "Esthetician" means a person who engages in the practice of esthetics for compensation.

64 "Esthetics" includes, but is not limited to, the following practices of administering cosmetic
65 treatments to enhance or improve the appearance of the skin: cleansing, toning, performing effleurage or
66 other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin
67 of the human body or scalp by means of cosmetic preparations, treatments, *or* any nonlaser device,
68 *whether by* electrical, mechanical, or manual *means*, for care of the skin; applying make-up or eyelashes
69 to any person, tinting or perming eyelashes and eyebrows, and lightening hair on the body except the
70 scalp; and removing unwanted hair from the body of any person by the use of *any nonlaser device*,
71 tweezing, *or by use of* chemical, or mechanical means. However, "esthetics" is not a healing art and
72 shall not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic
73 medicine, or chiropractic. The terms "healing arts," "practice of medicine," "practice of osteopathic
74 medicine," and "practice of chiropractic" shall mean the same as those terms are defined in § 54.1-2900.

75 "Esthetics instructor" means a licensed esthetician who has been certified by the Board as having
76 completed an approved curriculum and who meets the competency standards of the Board as an
77 instructor of esthetics.

78 "Esthetics spa" means any commercial establishment, residence, vehicle, or other establishment,
79 place, or event wherein esthetics is offered or practiced on a regular basis for compensation under
80 regulations of the Board.

81 "Master esthetician" means a licensed esthetician who, in addition to the practice of esthetics, offers
82 to the public for compensation, without the use of laser technology, lymphatic drainage, chemical
83 exfoliation, or microdermabrasion, and who has met such additional requirements as determined by the
84 Board to practice lymphatic drainage, chemical exfoliation with products other than Schedules II through
85 VI controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), and
86 microdermabrasion of the epidermis.

87 "Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

88 "Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or
89 event wherein nail care is offered or practiced on a regular basis for compensation and may include the
90 training of apprentices under regulations of the Board.

91 "Nail school" means a place or establishment licensed by the board to accept and train students in
92 nail care.

93 "Nail technician" means any person who for compensation manicures or pedicures natural nails, or
94 who performs artificial nail services for compensation, or any combination thereof.

95 "Nail technician instructor" means a licensed nail technician who has been certified by the Board as
96 having completed an approved curriculum and who meets the competency standards of the Board as an
97 instructor of nail care.

98 "Physical (wax) depilatory" means the wax depilatory product or substance used to remove
99 superfluous hair.

100 "School of cosmetology" means a place or establishment licensed by the Board to accept and train
101 students and which offers a cosmetology curriculum approved by the Board.

102 "School of esthetics" means a place or establishment licensed by the Board to accept and train
103 students and which offers an esthetics curriculum approved by the Board.

104 "Tattoo parlor" means any place in which tattooing is offered or practiced.

105 "Tattoo school" means a place or establishment licensed by the Board to accept and train students in
106 tattooing.

107 "Tattooer" means any person who for remuneration practices tattooing.

108 "Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon
109 or under the skin of any person with ink or any other substance, resulting in the permanent coloration of
110 the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other
111 instrument designed to touch or puncture the skin.

112 "Wax technician" means any person licensed by the Board who removes hair from the hair follicle
113 using a physical (wax) depilatory or by tweezing.

114 "Wax technician instructor" means a licensed wax technician who has been certified by the Board as
115 having completed an approved curriculum and who meets the competency standards of the Board as an
116 instructor of waxing.

117 "Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the
118 human body through the use of a physical (wax) depilatory or by tweezing.

119 "Waxing salon" means any commercial establishment, residence, vehicle or other establishment, place
120 or event wherein waxing is offered or practiced on a regular basis for compensation and may include the

training of apprentices under regulations of the Board.

"Waxing school" means a place or establishment licensed by the Board to accept and train students in waxing.

§ 54.1-2900. Definitions.

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

"Acupuncturist" means an individual 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.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"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.

"Laser hair removal" means the removal of unwanted hair from the body of any person by the use of laser technology.

"Laser hair removal technician" means an individual approved by the Board to practice laser hair removal. This is limited to "licensed laser hair removal technologist," 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.

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

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

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

190 "Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical
191 histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and
192 other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk
193 management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other
194 diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family
195 medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v)
196 evaluating the patient's and family's responses to the medical condition or risk of recurrence and
197 providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community
198 resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii)
199 providing written documentation of medical, genetic, and counseling information for families and health
200 care professionals.

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

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

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

221 "Practice of radiologic technology" means the application of ionizing radiation to human beings for
222 diagnostic or therapeutic purposes.

223 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
224 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
225 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
226 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
227 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
228 observation and monitoring of signs and symptoms, general behavior, general physical response to
229 respiratory care treatment and diagnostic testing, including determination of whether such signs,
230 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
231 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
232 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
233 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
234 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care
235 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
236 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
237 osteopathic medicine, and shall be performed under qualified medical direction.

238 "Qualified medical direction" means, in the context of the practice of respiratory care, having readily
239 accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who
240 has specialty training or experience in the management of acute and chronic respiratory disorders and
241 who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the
242 respiratory therapist.

243 "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 is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing 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, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that 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 that emits ionizing radiation that 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.

§ 54.1-2957.23. Unlawful to practice laser hair removal without license; unlawful designation as laser hair removal technician; Board to regulate laser hair removal technicians.

It shall be unlawful for a person to practice or to hold himself out as practicing as a laser hair removal technician unless he holds a license as such issued by the Board.

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

The Board of Medicine shall prescribe by regulation the qualifications governing the licensure of laser hair removal technicians. The regulations shall at a minimum require that, prior to performing laser hair removal, any laser hair removal technician who is not licensed to practice medicine, osteopathy, chiropractic, or podiatry shall either (i) obtain written documentation that the patient had received a diagnostic examination from a licensed practitioner of medicine, osteopathy, chiropractic, or podiatry with regard to the ailment or condition to be treated or (ii) provide to the patient a written recommendation for such a diagnostic examination. The regulations may include requirements for approved education programs, experience, and examinations. The regulations shall exempt from the requirement for Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL) any foreign speaking laser hair removal technician who speaks the language of the majority of his clients.

§ 54.1-2957.24. Requisite training and educational achievements of laser hair removal technicians.

The Board shall establish a testing program to determine the training and educational achievements of laser hair removal technicians, or the Board may accept other evidence such as successful completion of a national certification examination, experience, or completion of an approved training program in lieu of testing, and shall establish this as a prerequisite for approval of the licensee's application.

§ 54.1-2957.25. Advisory Board on Laser Hair Removal; composition; appointment.

The Advisory Board on Laser Hair Removal (the Advisory Board), shall assist the Board of Medicine in carrying out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of laser hair removal technicians. Nothing in this chapter shall be construed to authorize the Advisory Board to advise the Board of Medicine in matters pertaining to the regulations of doctors of medicine, osteopathy, chiropractic, or podiatry who are qualified by such regulations to practice laser hair removal.

The Advisory Board shall consist of five members to be appointed by the Governor as follows: three members shall be licensed laser hair removal technicians who have been practicing in Virginia for not less than three years; one member shall be a doctor of medicine, osteopathy, chiropractic, or podiatry

305 *who is qualified to practice laser hair removal in Virginia; and one member shall be a citizen member*
306 *appointed from the Commonwealth at large. After the initial staggering of terms, appointments shall be*
307 *for four-year terms. Any vacancy occurring during a member's term shall be filled for the unexpired*
308 *balance of that term. No person shall be eligible to serve on the Advisory Board for more than two*
309 *consecutive terms.*

310 **2. That the provisions of this act shall become effective on July 1, 2017.**

311 **3. That beginning July 1, 2017, the Governor's initial appointments to the Advisory Board on**
312 **Laser Hair Removal shall be staggered as follows: two members for a term of one year, two**
313 **members for a term of two years, and one member for a term of three years.**