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HOUSE BILL NO. 1084

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 54.1-2900 and 54.1-2956.13 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2956.14, relating to surgical assistants; licensure.

Patrons—Hayes and Jenkins

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900 and 54.1-2956.13 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2956.14 as follows:

§ 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.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"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.

"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.

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

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

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

68 "Physician assistant" means a health care professional who has met the requirements of the Board for
69 licensure as a physician assistant.

70 "Practice of acupuncture" means the stimulation of certain points on or near the surface of the body
71 by the insertion of needles to prevent or modify the perception of pain or to normalize physiological
72 functions, including pain control, for the treatment of certain ailments or conditions of the body and
73 includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture
74 does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the
75 use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular
76 acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment
77 program for patients eligible for federal, state or local public funds by an employee of the program who
78 is trained and approved by the National Acupuncture Detoxification Association or an equivalent
79 certifying body.

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

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

91 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
92 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
93 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
94 medicines, serums or vaccines. "Practice of chiropractic" shall include performing the physical
95 examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to
96 § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner
97 pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified
98 Medical Examiners.

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

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

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

119 "Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical
120 conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical

and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. 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 ionizing radiation 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.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist 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 therapist.

"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,

182 diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the
183 cardiopulmonary system under qualified medical direction.

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

187 **§ 54.1-2956.13. Licensure of surgical assistant; use of title; registration.**

188 A. No person shall use or assume the title "~~registered~~ surgical assistant" unless such person is
189 ~~registered with~~ holds a license as a surgical assistant issued by the Board.

190 B. The Board shall ~~register as a registered~~ establish criteria for licensure as a surgical assistant ~~any~~
191 ~~applicant who presents satisfactory evidence that he (i) holds, which shall include evidence that the~~
192 ~~applicant:~~

193 1. ~~Holds~~ a current credential as a surgical assistant or surgical first assistant issued by the National
194 Board of Surgical Technology and Surgical Assisting, ~~the National Surgical Assistant Association~~, or the
195 National Commission for Certification of Surgical Assistants or their successors; ~~(ii) has;~~

196 2. ~~Has~~ successfully completed a surgical assistant training program during the person's service as a
197 member of any branch of the armed forces of the United States; ~~or (iii) has~~

198 3. ~~Has~~ practiced as a surgical assistant *in the Commonwealth* at any time in the six months
199 immediately prior to July 1, 2014, ~~provided he registers with the Board by December 31, 2016~~ July 1,
200 2020.

201 C. For renewal of a ~~registration~~ license, a surgical assistant who was ~~registered~~ licensed based on a
202 credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical
203 Technology and Surgical Assisting, ~~the National Surgical Assistant Association~~, or the National
204 Commission for the Certification of Surgical Assistants or their successors shall attest that the credential
205 is current at the time of renewal.

206 **§ 54.1-2956.14. Advisory Board on Surgical Assisting; appointments; terms; duties.**

207 A. The Advisory Board on Surgical Assisting (Advisory Board) shall assist the Board in carrying out
208 the provisions of this chapter regarding the qualifications and regulation of licensed surgical assistants.

209 B. The Advisory Board shall consist of five members appointed by the Governor for four-year terms.
210 Three members of the Board shall be, at the time of appointment, surgical assistants who have practiced
211 in the Commonwealth for not less than three years; one member shall be a doctor of medicine,
212 osteopathy, or podiatry; and one member shall be a citizen member appointed from the Commonwealth
213 at large. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.
214 No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

215 C. The Advisory Board shall, under the authority of the Board, recommend to the Board for its
216 enactment into regulations (i) standards for continued licensure of surgical assistants, including
217 continuing education requirements, and (ii) standards relating to the professional conduct, termination
218 and reinstatement and renewal of licenses of surgical assistants.

219 **2. That initial appointments to the Advisory Board on Surgical Assisting established pursuant to**
220 **this act shall be made for the following terms: one member shall be appointed for a term of one**
221 **year, one member shall be appointed for a term of two years, one member shall be appointed for**
222 **a term of three years, and two members shall be appointed for a term of four years.**