

LD6797480

HOUSE BILL NO. 2612

Offered January 31, 1995

A BILL to amend and reenact § 54.1-2900 as it is effective and may become effective and § 54.1-2901 of the Code of Virginia, relating to medicine and other healing arts.

Patrons—Van Yahres, DeBoer and Jones, J.C.

Consent to introduce

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900 as it is effective and may become effective and § 54.1-2901 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2900. (Effective until January 1, 1997) 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 and podiatry who have fulfilled the physician requirements for licensure to practice acupuncture established by the Board.

"Board" means the Board of Medicine.

"Certified optometrist" means an optometrist who is licensed under Chapter 32 of this title and who has successfully completed the requirements for certification established by the Board of Medicine. Such certification shall enable an optometrist to treat certain diseases, including abnormal conditions, of the human eye and its adnexa, as specified by the Board of Medicine, with certain therapeutic pharmaceutical agents specified by the Board. However, such certification shall not permit treatment through surgery or other invasive modalities.

"Clinical psychologist" means a psychologist who is competent in the diagnosis, prevention, treatment and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental conditions, by the application of psychological principles, psychological methods, or psychological procedures, including but not limited to psychological assessment and evaluation and psychotherapy, which does not amount to the practice of medicine. This definition shall not be construed to limit or restrict any person licensed by a health regulatory board as defined in § 54.1-2500 from rendering services which he is licensed to provide.

"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 moxabustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, ~~nor~~ the use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums or vaccines, *nor the procedure of auricular acupuncture as defined 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 clinical psychology" means the offering by an individual of his services to the public as a clinical psychologist.

"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,

INTRODUCED

HB2612

60 but does not include the use of Roentgen rays and radium for diagnostic or therapeutic purposes or the
61 use of electricity for shock therapy and surgical purposes including cauterization.

62 "Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the
63 human foot and ankle, but does not include amputation proximal to the metatarsal-phalangeal joints. The
64 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within
65 the scope of practice of podiatry.

66 § 54.1-2900. (Effective January 1, 1997) Definitions.

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

68 "Acupuncturist" means individuals approved by the Board to practice acupuncture. This is limited to
69 "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy or
70 podiatry, who has successfully completed the requirements for licensure established by the Board
71 (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., L.Ac.) and "physician acupuncturist"
72 which means doctors of medicine, osteopathy and podiatry who have fulfilled the physician requirements
73 for licensure to practice acupuncture established by the Board.

74 "Board" means the Board of Medicine.

75 "Certified optometrist" means an optometrist who is licensed under Chapter 32 (§ 54.1-3200 et seq.)
76 of this title and who has successfully completed the requirements for certification established by the
77 Board of Medicine. Such certification shall enable an optometrist to treat certain diseases, including
78 abnormal conditions, of the human eye and its adnexa, as specified by the Board of Medicine, with
79 certain therapeutic pharmaceutical agents specified by the Board. However, such certification shall not
80 permit treatment through surgery or other invasive modalities.

81 "Clinical psychologist" means a psychologist who is competent in the diagnosis, prevention, treatment
82 and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental
83 conditions, by the application of psychological principles, psychological methods, or psychological
84 procedures, including but not limited to psychological assessment and evaluation and psychotherapy,
85 which does not amount to the practice of medicine. This definition shall not be construed to limit or
86 restrict any person licensed by a health regulatory board as defined in § 54.1-2500 from rendering
87 services which he is licensed to provide.

88 "Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure
89 or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

90 "Practice of acupuncture" means the stimulation of certain points on or near the surface of the body
91 by the insertion of needles to prevent or modify the perception of pain or to normalize physiological
92 functions, including pain control, for the treatment of certain ailments or conditions of the body and
93 includes the techniques of electroacupuncture, cupping and moxabustion. The practice of acupuncture
94 does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, ~~nor~~ the
95 use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums or
96 vaccines, *nor the procedure of auricular acupuncture as defined in § 54.1-2901 when used specifically*
97 *and exclusively in the context of a publicly supported comprehensive drug treatment program by an*
98 *employee of the program who is trained and approved by the National Acupuncture Detoxification*
99 *Association.*

100 "Practice of chiropractic" means the adjustment of the twenty-four movable vertebrae of the spinal
101 column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does
102 not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
103 medicines, serums or vaccines.

104 "Practice of clinical psychology" means the offering by an individual of his services to the public as
105 a clinical psychologist.

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

108 "Practice of physical therapy" means, upon medical referral and direction, the evaluation, testing,
109 treatment, reeducation and rehabilitation by physical, mechanical or electronic measures and procedures
110 of individuals who, because of trauma, disease or birth defect, present physical and emotional disorders,
111 but does not include the use of Roentgen rays and radium for diagnostic or therapeutic purposes or the
112 use of electricity for shock therapy and surgical purposes including cauterization.

113 "Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the
114 human foot and ankle, but does not include amputation proximal to the metatarsal-phalangeal joints. The
115 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within
116 the scope of practice of podiatry.

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

119 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,
120 podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.) of this title,
121 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.

§ 54.1-2901. Exceptions and exemptions generally.

The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing;

4. Any registered professional nurse, registered midwife, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel in his personal employ and supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary license or certification by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

183 17. The performance of the duties of any commissioned or contract medical officer, physical
184 therapist, podiatrist, or clinical psychologist in active service in the army, navy, coast guard, marine
185 corps, air force, or public health service of the United States while such individual is so commissioned
186 or serving;

187 18. Any masseur, who publicly represents himself as such, from performing services within the scope
188 of his usual professional activities and in conformance with state law;

189 19. Any person from performing services in the lawful conduct of his particular profession or
190 business under state law;

191 20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

192 21. Qualified emergency medical personnel from following Emergency Medical Services Do Not
193 Resuscitate Orders in accordance with § 54.1-2987.1; or

194 22. Any visiting or home care nurse licensed by the Board of Nursing acting in compliance with the
195 written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory
196 arrest.

197 23. *An employee of a publicly supported comprehensive drug treatment program who is certified by*
198 *the National Acupuncture Detoxification Association as an "acupuncture detoxification specialist" from*
199 *using the nondiscretionary, nonjudgmental procedure of auricular acupuncture. "Auricular acupuncture"*
200 *means the subcutaneous insertion of three to five sterile and disposable acupuncture needles one-eighth*
201 *inch bilaterally in the outer ear and used exclusively and specifically in the context of a comprehensive*
202 *drug treatment program.*