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HOUSE BILL NO. 1322

Offered January 11, 2024

A BILL to amend and reenact §§ 54.1-2900 and 54.1-2957 of the Code of Virginia, relating to certified registered nurse anesthetist; elimination of supervision requirement.

Patron—Sickles

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900 and 54.1-2957 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 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.).

"Advanced practice registered nurse" means a certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957, has completed an advanced graduate-level education program in a specialty category of nursing, and has passed a national certifying examination for that specialty.

"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.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"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 an advanced practice registered nurse 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 an advanced practice registered nurse 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.

"Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 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.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"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

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59 injuries or wrongful death, based on health care or professional services rendered, or that should have been
60 rendered, by a health care provider, to a patient.

61 "Nurse practitioner" means an advanced practice registered nurse, other than an advanced practice
62 registered nurse licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife,
63 certified registered nurse anesthetist, or clinical nurse specialist, who is jointly licensed by the Boards of
64 Medicine and Nursing pursuant to § 54.1-2957.

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

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

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

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

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

79 "Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the
80 insertion of needles to prevent or modify the perception of pain or to normalize physiological functions,
81 including pain control, for the treatment of certain ailments or conditions of the body and includes the
82 techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the
83 use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any
84 drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-
85 2901 when used in the context of a chemical dependency treatment program for patients eligible for federal,
86 state or local public funds by an employee of the program who is trained and approved by the National
87 Acupuncture Detoxification Association or an equivalent certifying body.

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

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

99 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and
100 assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use
101 of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or
102 vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical
103 and physical history, including information related to past surgical and nonsurgical treatment of the patient
104 and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information
105 related to the condition and symptoms of the patient, the examination and evaluation of the patient made by
106 the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of
107 chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's
108 license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and
109 received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered
110 with the National Registry of Certified Medical Examiners.

111 "Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical
112 histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other
113 family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management
114 of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies
115 necessary for genetic assessment; (iv) integrating the results with personal and family medical history to
116 assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's
117 and family's responses to the medical condition or risk of recurrence and providing client-centered counseling
118 and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical,
119 educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of

120 medical, genetic, and counseling information for families and health care professionals.

121 "Practice of licensed certified midwifery" means the provision of primary health care for preadolescents,
122 adolescents, and adults within the scope of practice of a certified midwife established in accordance with the
123 Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i)
124 providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care
125 for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and
126 non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating
127 with or referring patients to such other health care providers as may be appropriate for the care of the
128 patients; and (iv) serving as an educator in the theory and practice of midwifery.

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

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

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

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

151 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic
152 agents related to respiratory care procedures necessary to implement a treatment, disease prevention,
153 pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic
154 medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or
155 osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs
156 and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic
157 testing, including determination of whether such signs, symptoms, reactions, behavior or general physical
158 response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on
159 observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment
160 pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the
161 initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law.
162 The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private
163 dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a
164 practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

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

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

174 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,
175 podiatry, or chiropractic or a dentist pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs,
176 may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic
177 radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the
178 operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the
179 appropriate exposure of radiographs, the administration of radioactive chemical compounds under the
180 direction of an authorized user as specified by regulations of the Department of Health, or other procedures

181 that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is
 182 exposed.

183 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
 184 dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-
 185 2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures
 186 employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

187 "Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an
 188 advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine
 189 or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological
 190 and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality,
 191 make initial observations, and communicate observations to the supervising radiologist; (iii) administer
 192 contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the
 193 supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the
 194 American College of Radiology, the American Society of Radiologic Technologists, and the American
 195 Registry of Radiologic Technologists.

196 "Respiratory care" means the practice of the allied health profession responsible for the direct and indirect
 197 services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic
 198 testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary
 199 system under qualified medical direction.

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

203 **§ 54.1-2957. Licensure and practice of advanced practice registered nurses.**

204 A. As used in this section, "clinical experience" means the postgraduate delivery of health care directly to
 205 patients pursuant to a practice agreement with a patient care team physician.

206 B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the
 207 licensure of advanced practice registered nurses. It is unlawful for a person to practice as an advanced
 208 practice registered nurse in the Commonwealth unless he holds such a joint license.

209 C. Every nurse practitioner who meets the requirements of subsection I shall maintain appropriate
 210 collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one
 211 patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice
 212 without a written or electronic practice agreement. A certified nurse midwife shall practice pursuant to
 213 subsection H. A clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse
 214 anesthetist shall practice under ~~the supervision of a licensed doctor of medicine, osteopathy, podiatry, or~~
 215 ~~dentistry~~ *regulations jointly promulgated by the Board of Medicine and the Board of Nursing*. An advanced
 216 practice registered nurse who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in
 217 collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as
 218 a medical examiner pursuant to § 32.1-282. Collaboration and consultation among advanced practice
 219 registered nurses and patient care team physicians may be provided through telemedicine as described in §
 220 38.2-3418.16.

221 Physicians on patient care teams may require that an advanced practice registered nurse be covered by a
 222 professional liability insurance policy with limits equal to the current limitation on damages set forth in §
 223 8.01-581.15.

224 Service on a patient care team by a patient care team member shall not, by the existence of such service
 225 alone, establish or create liability for the actions or inactions of other team members.

226 D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and
 227 consultation among physicians and advanced practice registered nurses working as part of patient care teams
 228 that shall include the development of, and periodic review and revision of, a written or electronic practice
 229 agreement; guidelines for availability and ongoing communications that define consultation among the
 230 collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice
 231 agreements shall include provisions for (i) periodic review of health records, which may include visits to the
 232 site where health care is delivered, in the manner and at the frequency determined by the advanced practice
 233 registered nurse and the patient care team physician and (ii) input from appropriate health care providers in
 234 complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be
 235 maintained by an advanced practice registered nurse and provided to the Boards upon request. For advanced
 236 practice registered nurses providing care to patients within a hospital or health care system, the practice
 237 agreement may be included as part of documents delineating the advanced practice registered nurse's clinical
 238 privileges or the electronic or written delineation of duties and responsibilities in collaboration and
 239 consultation with a patient care team physician.

240 E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as
 241 an advanced practice registered nurse if the applicant has been licensed as an advanced practice registered

242 nurse under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the
243 qualifications for licensure required of advanced practice registered nurses in the Commonwealth. An
244 advanced practice registered nurse to whom a license is issued by endorsement may practice without a
245 practice agreement with a patient care team physician pursuant to subsection I if such application provides an
246 attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time
247 clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse
248 practitioner was licensed.

249 F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant
250 temporary licensure to advanced practice registered nurses.

251 G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires
252 from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his
253 practice such that he is no longer able to serve, and an advanced practice registered nurse is unable to enter
254 into a new practice agreement with another patient care team physician, the advanced practice registered
255 nurse may continue to practice upon notification to the designee or his alternate of the Boards and receipt of
256 such notification. Such advanced practice registered nurse may continue to treat patients without a patient
257 care team physician for an initial period not to exceed 60 days, provided that the advanced practice registered
258 nurse continues to prescribe only those drugs previously authorized by the practice agreement with such
259 physician and to have access to appropriate input from appropriate health care providers in complex clinical
260 cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant
261 permission for the advanced practice registered nurse to continue practice under this subsection for another
262 60 days, provided that the advanced practice registered nurse provides evidence of efforts made to secure
263 another patient care team physician and of access to physician input.

264 H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards and
265 consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives
266 governing such practice. A certified nurse midwife who has practiced fewer than 1,000 hours shall practice in
267 consultation with a certified nurse midwife who has practiced for at least two years prior to entering into the
268 practice agreement or a licensed physician, in accordance with a practice agreement. Such practice agreement
269 shall address the availability of the certified nurse midwife who has practiced for at least two years prior to
270 entering into the practice agreement or the licensed physician for routine and urgent consultation on patient
271 care. Evidence of the practice agreement shall be maintained by the certified nurse midwife and provided to
272 the Boards upon request. A certified nurse midwife who has completed 1,000 hours of practice as a certified
273 nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an
274 attestation from the certified nurse midwife who has practiced for at least two years prior to entering into the
275 practice agreement or the licensed physician with whom the certified nurse midwife has entered into a
276 practice agreement stating (i) that such certified nurse midwife or licensed physician has provided
277 consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this
278 section and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in
279 collaboration and consultation with the certified nurse midwife pursuant to the practice agreement. A certified
280 nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer
281 patients to such other health care providers as may be appropriate for the care of the patient.

282 I. A nurse practitioner who has completed the equivalent of at least five years of full-time clinical
283 experience, as determined by the Boards, may practice in the practice category in which he is certified and
284 licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an
285 attestation from the patient care team physician stating (i) that the patient care team physician has served as a
286 patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement
287 meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice
288 agreement, the patient care team physician routinely practiced with a patient population and in a practice area
289 included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of
290 time for which the patient care team physician practiced with the nurse practitioner under such a practice
291 agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the
292 Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of
293 this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation
294 indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a
295 nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other
296 evidence demonstrating that the applicant has met the requirements of this subsection in accordance with
297 regulations adopted by the Boards.

298 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall
299 (a) only practice within the scope of his clinical and professional training and limits of his knowledge and
300 experience and consistent with the applicable standards of care, (b) consult and collaborate with other health
301 care providers based on the clinical conditions of the patient to whom health care is provided, and (c)
302 establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate

303 health care providers.

304 J. A clinical nurse specialist licensed by the Boards of Medicine and Nursing who does not prescribe
305 controlled substances or devices may practice in the practice category in which he is certified and licensed
306 without a written or electronic practice agreement. Such clinical nurse specialist shall (i) only practice within
307 the scope of his clinical and professional training and limits of his knowledge and experience and consistent
308 with the applicable standards of care, (ii) consult and collaborate with other health care providers based on
309 the clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of
310 complex medical cases and emergencies to physicians or other appropriate health care providers.

311 A clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices shall
312 practice in consultation with a licensed physician in accordance with a practice agreement between the
313 clinical nurse specialist and the licensed physician. Such practice agreement shall address the availability of
314 the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be
315 maintained by a clinical nurse specialist and provided to the Boards upon request. The practice of clinical
316 nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and
317 regulations.