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HOUSE BILL NO. 1322

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Health and Human Services
on February 8, 2024)

(Patron Prior to Substitute—Delegate Sickles)

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.

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 in consultation with* 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

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

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

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

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

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

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

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

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

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

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

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

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

resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

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

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

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical 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)

183 performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic
184 or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises
185 responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from
186 unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive
187 chemical compounds under the direction of an authorized user as specified by regulations of the
188 Department of Health, or other procedures that contribute to any significant extent to the site or dosage
189 of ionizing radiation to which a patient is exposed.

190 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
191 dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27
192 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic
193 procedures employing equipment that emits ionizing radiation that is limited to specific areas of the
194 human body.

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

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

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

211 **§ 54.1-2957. Licensure and practice of advanced practice registered nurses.**

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

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

217 C. Every nurse practitioner who meets the requirements of subsection I shall maintain appropriate
218 collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least
219 one patient care team physician. A nurse practitioner who meets the requirements of subsection I may
220 practice without a written or electronic practice agreement. A certified nurse midwife shall practice
221 pursuant to subsection H. A clinical nurse specialist shall practice pursuant to subsection J. A certified
222 registered nurse anesthetist shall practice ~~under the supervision of~~ *in consultation with* a licensed doctor
223 of medicine, osteopathy, podiatry, or dentistry ~~and under the regulations jointly promulgated by the~~
224 *Board of Medicine and the Board of Nursing*. An advanced practice registered nurse who is appointed as
225 a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of
226 medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to
227 § 32.1-282. Collaboration and consultation among advanced practice registered nurses and patient care
228 team physicians may be provided through telemedicine as described in § 38.2-3418.16.

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

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

234 D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration
235 and consultation among physicians and advanced practice registered nurses working as part of patient
236 care teams that shall include the development of, and periodic review and revision of, a written or
237 electronic practice agreement; guidelines for availability and ongoing communications that define
238 consultation among the collaborating parties and the patient; and periodic joint evaluation of the services
239 delivered. Practice agreements shall include provisions for (i) periodic review of health records, which
240 may include visits to the site where health care is delivered, in the manner and at the frequency
241 determined by the advanced practice registered nurse and the patient care team physician and (ii) input
242 from appropriate health care providers in complex clinical cases and patient emergencies and for
243 referrals. Evidence of a practice agreement shall be maintained by an advanced practice registered nurse
244 and provided to the Boards upon request. For advanced practice registered nurses providing care to

patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the advanced practice registered nurse's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

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

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

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

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

I. A nurse practitioner who has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized

306 to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the
307 attestation required by this subsection, the Boards may accept other evidence demonstrating that the
308 applicant has met the requirements of this subsection in accordance with regulations adopted by the
309 Boards.

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

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

324 A clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices
325 shall practice in consultation with a licensed physician in accordance with a practice agreement between
326 the clinical nurse specialist and the licensed physician. Such practice agreement shall address the
327 availability of the physician for routine and urgent consultation on patient care. Evidence of a practice
328 agreement shall be maintained by a clinical nurse specialist and provided to the Boards upon request.
329 The practice of clinical nurse specialists shall be consistent with the standards of care for the profession
330 and with applicable laws and regulations.