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HOUSE BILL NO. 145

House Amendments in [] — January 28, 2022

A *BILL to amend and reenact §§ 32.1-162.1, 32.1-282, 54.1-2900, and 54.1-2952 of the Code of Virginia, relating to practice of physician assistants.*

Patron Prior to Engrossment—Head

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-162.1, 32.1-282, 54.1-2900, and 54.1-2952 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-162.1. Definitions.

As used in this article unless a different meaning or construction is clearly required by the context or otherwise:

"Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative and supportive medical and other health services to terminally ill patients and their families. A hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs which are experienced during the final stages of illness, and during dying and bereavement. Hospice care shall be available twenty-four hours a day, seven days a week.

"Hospice facility" means an institution, place, or building owned or operated by a hospice provider and licensed by the Department to provide room, board, and appropriate hospice care on a 24-hour basis, including respite and symptom management, to individuals requiring such care pursuant to the orders of a physician. Such facilities with 16 or fewer beds are exempt from Certificate of Public Need laws and regulations. Such facilities with more than 16 beds shall be licensed as a nursing facility or hospital and shall be subject to Certificate of Public Need laws and regulations.

"Hospice patient" means a diagnosed terminally ill patient, with an anticipated life expectancy of six months or less, who, alone or in conjunction with designated family members, has voluntarily requested admission and been accepted into a licensed hospice program.

"Hospice patient's family" shall mean the hospice patient's immediate kin, including a spouse, brother, sister, child or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the hospice patient's family by mutual agreement among the hospice patient, the relation or individual, and the hospice team.

"Identifiable hospice administration" means an administrative group, individual or legal entity that has a distinct organizational structure, accountable to the governing authority directly or through a chief executive officer. This administration shall be responsible for the management of all aspects of the program.

"Inpatient" means the provision of services, such as food, laundry, housekeeping, and staff to provide health or health-related services, including respite and symptom management, to hospice patients, whether in a hospital, nursing facility, or hospice facility.

"Interdisciplinary team" means the patient and the patient's family, the attending physician, and the following hospice personnel: physician, [~~physician assistant~~,] nurse, social worker, and trained volunteer. [~~Providers~~ *Physician assistants and providers*] of special services, such as clergy, mental health, pharmacy, and any other appropriate allied health services [,] may also be included on the team as the needs of the patient dictate.

"Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process, rather than the treatment aimed at investigation and intervention for the purpose of cure or prolongation of life.

§ 32.1-282. Medical examiners.

A. The Chief Medical Examiner may appoint for each county and city one or more medical examiners, who shall be licensed as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner in the Commonwealth and appointed as agents of the Commonwealth, to assist the Office of the Chief Medical Examiner with medicolegal death investigations. A physician assistant appointed as a medical examiner shall ~~have a practice agreement with and be under the continuous supervision of a physician medical examiner~~ in accordance with § 54.1-2952. A nurse practitioner appointed as a medical examiner shall practice in accordance with § 54.1-2957.

B. At the request of the Chief Medical Examiner, the Assistant Chief Medical Examiner, or their

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60 designees, medical examiners may assist the Office of the Chief Medical Examiner with cases requiring
61 medicolegal death investigations in accordance with § 32.1-283.

62 C. The term of each medical examiner appointed, other than an appointment to fill a vacancy, shall
63 begin on the first day of October of the year of appointment. The term of each medical examiner shall
64 be three years; however, an appointment to fill a vacancy shall be for the unexpired term.

65 **§ 54.1-2900. Definitions.**

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

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

71 "Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles
72 in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the
73 context of a chemical dependency treatment program.

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

76 "Board" means the Board of Medicine.

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

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

85 "Clinical nurse specialist" means an advance practice registered nurse who is certified in the specialty
86 of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as a nurse
87 practitioner pursuant to § 54.1-2957.

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

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

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

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

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

104 "Medical malpractice judgment" means any final order of any court entering judgment against a
105 licensee of the Board that arises out of any tort action or breach of contract action for personal injuries
106 or wrongful death, based on health care or professional services rendered, or that should have been
107 rendered, by a health care provider, to a patient.

108 "Medical malpractice settlement" means any written agreement and release entered into by or on
109 behalf of a licensee of the Board in response to a written claim for money damages that arises out of
110 any personal injuries or wrongful death, based on health care or professional services rendered, or that
111 should have been rendered, by a health care provider, to a patient.

112 "Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the
113 Boards of Medicine and Nursing pursuant to § 54.1-2957.

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

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

120 "Patient care team physician" means a physician who is actively licensed to practice medicine in the
121 Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management

and leadership in the care of patients as part of a patient care team.

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

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

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

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

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

"Practice of chiropractic" means the adjustment of the 24 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 chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and 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

183 human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

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

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

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

204 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
205 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
206 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
207 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
208 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
209 observation and monitoring of signs and symptoms, general behavior, general physical response to
210 respiratory care treatment and diagnostic testing, including determination of whether such signs,
211 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
212 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
213 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
214 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
215 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care
216 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
217 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
218 osteopathic medicine, and shall be performed under qualified medical direction.

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

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

229 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,
230 podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i)
231 performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic
232 or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises
233 responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from
234 unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive
235 chemical compounds under the direction of an authorized user as specified by regulations of the
236 Department of Health, or other procedures that contribute to any significant extent to the site or dosage
237 of ionizing radiation to which a patient is exposed.

238 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
239 dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27
240 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic
241 procedures employing equipment that emits ionizing radiation that is limited to specific areas of the
242 human body.

243 "Radiologist assistant" means an individual who has met the requirements of the Board for licensure
244 as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor

of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

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

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

§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care teams; services that may be performed by physician assistants; responsibility of licensee; employment of physician assistants.

A. A patient care team physician or patient care team podiatrist licensed under this chapter may serve on a patient care team with physician assistants and shall provide collaboration and consultation to such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed to collaborate or consult with more than six physician assistants on a patient care team at any one time.

Service as part of a patient care team by a patient care team physician or patient care team podiatrist shall not, by the existence of such service alone, establish or create vicarious liability for the actions or inactions of other team members.

B. Physician assistants may practice medicine to the extent and in the manner authorized by the Board. A patient care team physician or patient care team podiatrist shall be available at all times to collaborate and consult with physician assistants. Each patient care team shall identify the relevant physician assistant's scope of practice and an evaluation process for the physician assistant's performance.

C. Physician assistants appointed as medical examiners pursuant to § 32.1-282 ~~shall only function as part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282~~ *may practice without a written or electronic practice agreement.*

D. Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees that are supervised by one or more physicians or podiatrists may employ one or more physician assistants in accordance with the provisions of this section.

Activities shall be performed in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a practice agreement and may include health care services that are educational, diagnostic, therapeutic, or preventive, including establishing a diagnosis, providing treatment, and performing procedures. Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a physician assistant may perform initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, in accordance with the practice agreement, including tasks performed, relating to the provision of medical care in an emergency department.

A patient care team physician or the on-duty emergency department physician shall be available at all times for collaboration and consultation with both the physician assistant and the emergency department physician. No person shall have responsibility for any physician assistant who is not employed by the person or the person's business entity.

E. No physician assistant shall perform any acts beyond those set forth in the practice agreement or authorized as part of the patient care team. No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient is available for collaboration or consultation, pursuant to regulations of the Board.

F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working in the field of radiology *or orthopedics* as part of a patient care team, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.