

HOUSE BILL NO. 1322

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services

on _____)

(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.

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

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

34 "Clinical nurse specialist" means an advanced practice registered nurse who is certified in the
35 specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as
36 an advanced practice registered nurse pursuant to § 54.1-2957.

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

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

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

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

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

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

57 "Medical malpractice settlement" means any written agreement and release entered into by or on
58 behalf of a licensee of the Board in response to a written claim for money damages that arises out of any
59 personal injuries or wrongful death, based on health care or professional services rendered, or that should
60 have been 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
63 midwife, certified registered nurse anesthetist, or clinical nurse specialist, who is jointly licensed by the
64 Boards of Medicine and Nursing pursuant to § 54.1-2957.

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

68 "Patient care team" means a multidisciplinary team of health care providers actively functioning
69 as a unit with the management and leadership of one or more patient care team physicians for the purpose
70 of providing 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
72 the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides
73 management and 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
75 the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides
76 management and 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
78 for licensure as a physician assistant.

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

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

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

99 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
100 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include
101 the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines,
102 serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a
103 patient's medical and physical history, including information related to past surgical and nonsurgical
104 treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a
105 patient's record information related to the condition and symptoms of the patient, the examination and

106 evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the
107 doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination
108 of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12
109 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R.
110 Part 390, Subpart D and (ii) registered 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
114 management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other
115 diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family
116 medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v)
117 evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing
118 client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources
119 that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing
120 written documentation of medical, genetic, and counseling information for families and health care
121 professionals.

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

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

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

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

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

153 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
154 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
155 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
156 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner
157 of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and
158 monitoring of signs and symptoms, general behavior, general physical response to respiratory care
159 treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions,

160 behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of
161 respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral,
162 respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed
163 practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to
164 the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be
165 performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
166 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
167 osteopathic medicine, and shall be performed under qualified medical direction.

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

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

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

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

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

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

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

208 **§ 54.1-2957. Licensure and practice of advanced practice registered nurses.**

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

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

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

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

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

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

241 provided to the Boards upon request. For advanced practice registered nurses providing care to patients
242 within a hospital or health care system, the practice agreement may be included as part of documents
243 delineating the advanced practice registered nurse's clinical privileges or the electronic or written
244 delineation of duties and responsibilities in collaboration and consultation with a patient care team
245 physician.

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

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

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

268 this subsection for another 60 days, provided that the advanced practice registered nurse provides evidence
269 of efforts made to secure another patient care team physician and of access to physician input.

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

289 I. A nurse practitioner who has completed the equivalent of at least five years of full-time clinical
290 experience, as determined by the Boards, may practice in the practice category in which he is certified and
291 licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an
292 attestation from the patient care team physician stating (i) that the patient care team physician has served
293 as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice
294 agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such

295 practice agreement, the patient care team physician routinely practiced with a patient population and in a
296 practice area included within the category for which the nurse practitioner was certified and licensed; and
297 (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under
298 such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee
299 established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner
300 satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license
301 that includes a designation indicating that the nurse practitioner is authorized to practice without a practice
302 agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this
303 subsection, the Boards may accept other evidence demonstrating that the applicant has met the
304 requirements of this subsection in accordance with regulations adopted by the Boards.

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

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

319 A clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices
320 shall practice in consultation with a licensed physician in accordance with a practice agreement between
321 the clinical nurse specialist and the licensed physician. Such practice agreement shall address the

322 availability of the physician for routine and urgent consultation on patient care. Evidence of a practice
323 agreement shall be maintained by a clinical nurse specialist and provided to the Boards upon request. The
324 practice of clinical nurse specialists shall be consistent with the standards of care for the profession and
325 with applicable laws and regulations.

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