

DRAFT
AGENDA

VIRGINIA BOARD OF HEALTH PROFESSIONS
VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

REGULATORY RESEARCH COMMITTEE

August 18, 2016

Board Room #2 10:00 a.m.

Call to Order

Mr. Wells

Approval of Minutes - page 1

Mr. Wells

- **June 28, 2016**

Chiropractor Review – page 14

Dr. Carter

DHP HWDC Funeral Service Licensee Survey Results – page 82

Adjournment



Regulatory Research Committee

June 28, 2016

Public Hearing on the Evaluation of Chiropractors' Competency to Conduct Physical Examinations for Commercial Drivers' Licensure

10:00 a.m. - Board Room 2
9960 Mayland Dr, Henrico, VA 23233

In Attendance

Barbara Allison-Bryan, MD, Board of Medicine
Martha S. Perry, MS, Citizen Member
Jacquelyn M. Tyler, RN, Citizen Member
J. Paul Welch, II, Board of Funeral Directors and Embalmers
James Wells, RPh, Citizen Member - CHAIR

Absent

All members in attendance

DHP Staff

David E. Brown, DC, Director DHP
Lisa R. Hahn, MPA, Chief Deputy Director DHP
Elaine Yeatts, Senior Policy Analyst DHP
Yetty Shobo, Ph.D., Deputy Executive Director BHP
Laura L. Jackson, Operations Manager BHP

Emergency Egress

Dr. Shobo

Observers

Chris Perron

Speakers

David B. Doberg, DC
Bruce Keeney
Thomas Wetzen, DC
Craig Little
Brad Robinson, DC
Len Bundick, DC
Joe Foley, DC
W. Scott Johnson
Michael Megehee, DC
Bo Keeney

Call to Order

Chair item: Mr. Wells **Time** 10:01 a.m.

Quorum Established



Staff Briefing

Presenter Dr. Shobo on behalf of Dr. Carter

Discussion

Dr. Shobo provided a PowerPoint presentation prepared by Dr. Carter briefing the committee and public regarding the Evaluation of Chiropractor Competency to Perform CDL Physical Examinations. (See Attachment)

Public Comment

Chair Mr. Wells

Discussion

Mr. Wells opened the floor to individuals requesting to provide public comment.

Comment David Dolberg, DC Virginia

Discussion

Dr. Dolberg is President of the Virginia Chiropractic Association. He stated that Virginia law needs to be changed so that chiropractors can be certified medical examiners and perform CDL exams.

Comment Bruce Keeney Virginia

Discussion

Mr. Keeney represents the Virginia Chiropractic Association and provided comment relating to the reinstatement of chiropractors performing physicals for drivers' licenses in accordance with federal procedures and regulations. Mr. Keeney also provided written public comment May 20, 2016.

Comment Thomas Wetzen, DC Virginia

Discussion

Dr. Wetzen is immediate past president of the Virginia Chiropractic Association. He provided background information as to why chiropractors are well qualified to perform CDL exams.

Comment Craig Little, DC, M.Ed. Arizona

Discussion

Dr. Little is President of The Council on Chiropractic Education. He stated that graduates of CCE accredited programs are clearly educated and trained to perform commercial driver's license physicals, including all elements as set forth in federal regulation. Dr. Little provided written public comment June 6, 2016.



Comment Brad Robinson, DC Virginia

Discussion

Dr. Robinson is past president of the Virginia Society of Chiropractic. He stated that chiropractors meet and exceed the education requirements to perform CLD exams.

Comment Len Bundick, DC Virginia

Discussion

Dr. Bundick is a practicing chiropractor and had performed CDL exams until federal law changed. Dr. Bundick stated that chiropractors are well educated and qualified to perform CDL exams.

Comment Joe Foley, DC Virginia

Discussion

Dr. Foley is the legislative chair for the Virginia Chiropractic Association. He stated that 47 states allow chiropractors to perform CDL exams and that Virginia law needs to be updated to allow chiropractors to perform CLD exams.

Comment W. Scott Johnson Virginia

Discussion

Mr. Johnson spoke on behalf of the Medical Society of Virginia. He stated that the Medical Society requests that the Board base their decision on science and facts.

Comment Michael Megehee, DC Oregon

Discussion

Dr. Megehee is President of TeamCME and a National Registry Certified Medical Examiner. He stated that chiropractors are trained and capable of performing CDL exams.

Comment Bo Keeney Virginia

Discussion

Mr. Keeney is working with Virginia legislators who are proposing legislation. He stated that Virginia chiropractors meet all of the criteria necessary for them to perform CDL exams.



Adjourned

Mr. Wells advised those in attendance that the board would accept public comment until 5:00 p.m. on July 15, 2016.

Adjourned 11:07 a.m.

Chair Robert Wells, RPh

Signature: _____ Date: ____/____/____

**Deputy Executive
Director** Yetty Shobo, Ph.D.

Signature: _____ Date: ____/____/____

Attachment to follow



Department of Health Professions



Department of Health Professions

Evaluation of Chiropractor Competency to Perform CDL Physical Examinations

Briefing

Perimeter Center
Conference Room 2
9960 Mayland Drive
Henrico, VA 23233
June 28, 2016



The federal impetus . . .

Complete Guide to
Medical Examiner Certification

Complete Guide to Medical Examiner Certification

Extracted from page 5

Introduction

The National Registry of Certified Medical Examiners (hereinafter referred to as the "National Registry") was established in accordance with the final rule published by the Federal Motor Carrier Safety Administration (FMCSA) in the Federal Register on April 20, 2012. This rule requires that all medical examiners who conduct physical examinations for interstate commercial motor vehicle (CMV) drivers:

- Maintain a valid State license to conduct medical examinations;
- Complete required training on FMCSA's physical qualification standards;
- Pass the FMCSA Medical Examiner Certification Test to demonstrate knowledge of FMCSA's physical qualification standards; and
- Complete refresher training every 5 years and recertification testing every 10 years.

As of May 21, 2014, all medical certificates issued to interstate truck and bus drivers must come from medical examiners listed on the National Registry.

The National Registry Overview

In August 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act. A major component of the Act was to authorize FMCSA to establish the National Registry of Certified Medical Examiners (49 U.S. Code 3114f).



Today's Briefing Topic Areas

- What constitutes the CDL physical examinations?
- What are the requirements for Medical Examiner
- Certification/National Registry Listing and Maintenance
- What Chiropractic education and training is required in Virginia? In other states?
- A bit more. . .



FMCSA Physical Examination Requirements

Extensive details are provided in these federal documents:*

- 49 CFR.391.41 *Physical Qualifications for Drivers*
- *Instructions to the Medical Examiner*
- *Form 649-F(6045) Medical Examination Report For Commercial Driver Fitness Determination*

*Accessible at <https://nationalregistry.fmcsa.dot.gov/NRPublicUI/home.seam>



Department of Health Professions

FMCSA Medical Examiners Certification Requirements*

- Reference: §49 CFR 390.103(a) (1)
- Current license in accordance with applicable state laws and regulations that permits licensee to perform physical examinations
 - FMCSA rules allow advanced practice nurse, doctor of chiropractic, medicine, or osteopathy, physician assistant, or other medical professional authorized by state law. . . .
 - Chiropractors are not permitted by current Virginia statutes.
- Completing proscribed Medical Examiner Certification training
- Passing the Medical Examiners Test

* Source: *Complete Guide to Medical Examiner Certification*
https://nationalregistry.fmcsa.dot.gov/NRPpublicUI/documents/Complete_Guide_to_ME_Certification.pdf



Department of Health Professions

FMCSA Training

- Shaped by curriculum provided in §49 CFR 290.105(b)
 - Described in depth in the *Complete Guide to Medical Examiner Certification, Appendix A: National Registry of Certified Medical Examiners Medical Examiner Training*
- Presumes existing clinical knowledge from professional education and training and focuses on FMCSA-specific topics relating to commercial drivers and the physical and mental demands of the job

* Source: *Complete Guide to Medical Examiner Certification*
https://nationalregistry.fmcsa.dot.gov/NRPpublicUI/documents/Complete_Guide_to_ME_Certification.pdf



Department of Health Professions

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Department of Health Professions

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Department of Health Professions

Accepted Training Organizations

- Must meet the FMCSA core curriculum specifications
- Must be nationally recognized healthcare profession accrediting organization to provide CE units
- Must Provide training participants with proof of participation and FMCSA with a point of contact

See handout with examples of health professional organizations and list of registered organizations with Virginia addresses. Information also accessible at:
<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/TrainingOrgList.seam>



Department of Health Professions

FMCSA Testing

- Reference: *The Complete Guide to Medical Examiner Certification*, [Appendix B: Detailed Content Outline](#)
- Upon completing the training, the applicant creates a National Registry Account, schedules and takes the 100-item two-hour test through a testing center listed on the FMCSA site.
- As of June 21, 2016, the FMCSA website indicated there are 40 testing centers throughout Virginia.

Source:

<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/SearchResultsTestOrg.seam?currentPage=1&zip=&pageSize=25&state=VA&radius=500&orgName=&city=%&cid=5530163>



Department of Health Professions

To Maintain Certification & National Registry Listing

- Appropriately complete all physical exams, medical examination reports, and certificates
- Submit monthly online reports to FMCSA and inform within 30 days of any changes in application information
- Retrain every 5 years and retest every 10 years
- Provide proof of eligibility upon FMCSA request (audit)



Department of Health Professions

There were 21 practitioners in Virginia on June 21, 2016
(MD=9, DO=7, NP=4, PA=1)

- FMCSA may remove someone from the National Registry with cause and subject to appeal. Individuals may also request to be removed.
- The FMCSA online listing is updated continuously accordingly. The listing is accessible at:

<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/SearchResults.seam?zip=&pageSize=25&state=VA&radius=500¤tPage=0&city=&cid=5718673>



Department of Health Professions

Chiropractic Education and Testing

- Chiropractors are licensed in all U.S. states, DC, PR & Virgin Islands
- Doctor of Chiropractic (DC) earned through accredited programs, most accredited through the Council on Chiropractic Education
- National Board of Chiropractic Examiners Examination (NBCE) – parts or additional exams specified by respective states
- *Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic §18VAC85-20-10 et seq.* provide detail Virginia's requirements.



Department of Health Professions

Chiropractic Education and Testing

- The Federation of Chiropractic Licensing Boards (FCLB) has an extensive directory of information regarding the boards and licensure requirements: <http://directory.fclb.org/>
- FCLB's "Education and Testing Information" website provides an at-a-glance table that compares state requirements: <http://directory.fclb.org/Statistics/EducationTestingUs.aspx>



Department of Health Professions

DC Current Standard Curriculum

The Association of Chiropractic Colleges reports that CCE accredited programs last 4 years and address the following topics:

anatomy
biochemistry
physiology
microbiology
pathology
public health
physical, clinical and laboratory diagnosis
gynecology & obstetrics
pediatrics
geriatrics
dermatology
otolaryngology
diagnostic imaging procedures

psychology
nutrition/dietetics
biomechanics
orthopedics
neurology
first aid & emergency procedures
spinal analysis
principles and practice of chiropractic
clinical decision making
adjustive techniques
research methods and procedures
professional practice ethics

http://www.chirocolleges.org/prospective_students.html



Department of Health Professions

NBCE Parts Required in Virginia

- Part I tests 6 basic sciences areas: *general anatomy, spinal anatomy, physiology, chemistry, pathology, microbiology*
- Part II tests 6 clinical science areas: *general diagnosis, neuro-musculoskeletal diagnosis, diagnostic imaging, principles of chiropractic, chiropractic practice, associated clinical sciences*
- Part III tests 9 clinical areas: *case history, physical examination, neuro-musculoskeletal examination, diagnostic imaging, clinical laboratory and special studies, diagnosis or clinical impressions, chiropractic techniques, supportive interventions, case management*
- Part IV, National Practical Exam, has 3 major sections, with each divided into stations: *Diagnostic imaging, chiropractic technique, and case management.*



Department of Health Professions

A bit more . . .

Available Disciplinary Information:

- Virginia's DHP Statistics – agency website
- FCLB "CIN-BAD" accessible by the Board of Medicine

Available wage comparison data:

- U.S. Bureau of Labor data available on employment and wage comparisons, example on next slide. . .



Department of Health Professions

U.S. Bureau of Labor Statistics (May 2015)* Employment and Wage Comparisons of Virginia and Surrounding States that approve Chiropractic CDL Physical Examination

State	Employment	Hourly mean wage	Annual mean wage
Virginia	890	\$41.93	\$87,210
Maryland	490	\$39.46	\$82,080
North Carolina	730	\$44.77	\$93,120
Kentucky	350	\$33.12	\$68,900
U.S. Overall	32,080	\$37.68	\$78,370

* <http://www.bls.gov/soc/home.htm> and <http://www.bls.gov/oes/current/oes291011.htm>
Data extracted June 1 2016 – reflects employee compensation not all practitioners

EVALUATION OF CHIROPRACTOR COMPETENCY TO PERFORM CDL PHYSICAL EXAMINATIONS

Virginia Board of Health Professions Virginia Department of Health Professions

Authority

The Director of the Virginia Department of Health Professions requested the Board of Health Professions to conduct this review to determine whether chiropractor's education and training enables their performance of commercial driver's license and learner's permit physical examinations as provided in federal regulation. The request was pursuant to a letter to the Director from Delegate Robert D. Orrock, Sr. and a result of the introduction of House Bill 1098 in 2016 and similar proposal in 2015 (See Appendix 1).

The Board is authorized by the General Assembly with a number of powers and duties specified in §§54.1-2500, 54.1-2409.2, 54.1- 2410 *et seq.*, 54.1-2729 and 54.1-2730 *et seq.* of the *Code of Virginia*. Of greatest relevance to the review is §54.1-2510 (1), (7), and (12) which enable the Board to evaluate the need for coordination among health regulatory boards, to advise on matters relating to the regulation or deregulation of health care professions and occupations, and to examine scope of practice conflicts involving professions and advise on the nature and degree of such conflicts.

Methods

In keeping with constitutional principles, Virginia statutes, and nationally recognized research standards, the Board has developed a standard methodology to address key issues of relevance in gauging the need for regulation of individual health professions. The specifics are fully described in the Board's *Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions*, available from the Board's website.¹ These Policies and Procedures contain seven evaluative criteria that apply most directly to determining *whether* a profession should be regulated and to what degree. But, they also provide a standard conceptual framework with proscribed questions and research methods employed for over two decades to objectively address key policy issues related to health professional regulation.

All Criteria are applied in full sunrise reviews: (1) Risk of Harm to the Consumer, (2) Specialized Skills and Training, (3) Autonomous Practice, (4) Scope of Practice, (4) Economic Costs, (5) Alternatives to Regulation, and (6) Least Restrictive Regulation. Because the aim is to specifically assess chiropractor competency to perform examinations as proscribed by the U.S. Department of Transportation's Federal Motor Carrier Administration (FMCSA), only those Criteria outlined in Table 1 – Framing Criteria Questions were applied for this review.

¹ http://www.dhp.virginia.gov/bhp/bhp_guidelines.htm) under Guidance Document 75-2 Appropriate Criteria in Determining the Need for Regulation of Any Health Care Occupation or Professions, revised February 1998.

Table 1 – Framing Criteria Questions

<p style="text-align: center;">Risk of Harm to the Consumer and Specialized Skills and Training</p> <ul style="list-style-type: none"> ▪ What are the competencies required of medical examiners certified through the U.S. Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA)? <ul style="list-style-type: none"> ○ Which health professions are currently eligible for this national certification in Virginia and elsewhere? ○ Which training programs are acceptable? How are they accredited? ○ What are the competencies (knowledge, skills, and abilities) assessed by the national FMCSA Medical Examiner Certification Test? ○ What are the continuing competency requirements for maintaining a listing on the National Registry of Certified Medical Examiners? ○ What constitutes grounds for removal from the Registry list? ▪ What, specifically, constitutes physical examinations pursuant to FMCSA requirements? ▪ Is there evidence of harm to the consumer related to FMCSA qualifying examinations performed by Chiropractors? If any, <ul style="list-style-type: none"> ○ How is this evidence documented (e.g., FMCSA action, Board discipline, malpractice cases, criminal cases, other administrative disciplinary actions)? ○ Characterize the type of harm (physical, emotional, mental, social, or financial). ○ How does this compare with other professions, generally? ▪ Does a potential for fraud exist because of the inability of the public to make informed choice in selecting a competent practitioner? 	<ul style="list-style-type: none"> ▪ Do Virginia’s Chiropractor licensure requirements differ substantively from other states² that allow Chiropractors to perform FMCSA commercial driver license physical examinations? If so, what are the differences attributed to? <ul style="list-style-type: none"> ○ Requisite education, training or educational program acceptance? ○ Examination(s)? ○ Continuing competency requirements to maintain licensure? ○ Grounds for Board Disciplinary action? <p style="text-align: center;">Scope of Practice</p> <ul style="list-style-type: none"> ▪ Do Chiropractors who are on the FMCSA National Registry of Medical Examiners from other states perform commercial driver physical examinations differently than the other professions so authorized? <ul style="list-style-type: none"> ○ Doctors of Medicine ○ Doctors of Osteopathy ○ Physician Assistants ○ Advanced Practice Nurses <p style="text-align: center;">Economic Costs</p> <ul style="list-style-type: none"> • If the data are available, what are the typical fees for performing FMCSA physical examinations in Virginia? In adjoining states? Nationally? • Is there evidence that expanding the scope of practice of Chiropractors to include these examinations? <ul style="list-style-type: none"> ○ Increases the cost for services? ○ Increases salaries for those employed by health delivery organizations? ○ Restricts other professions in providing care? ○ Other deleterious economic effects? ▪ If data are available, address issues related to supply and demand and distribution of resources including discussion of insurance reimbursement.
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² D.C., Kentucky, Maryland, North Carolina, Pennsylvania, and West Virginia are examples of surrounding jurisdictions that permit Chiropractors to perform CDL physicals.

The following steps guided the review:

1. Conduct a comprehensive review of the pertinent policy and professional literature.
2. Review and summarize available relevant empirical data as may be available from pertinent research studies, malpractice insurance carriers, and other sources.
3. Review relevant federal and state laws, regulations and governmental policies.
4. Review other states' relevant experiences with scope and practice
5. Develop a report of research findings, to date, and solicit public comment on reports and other insights through hearing and written comment period. The public hearing was conducted on June 28, 2016. With written comment accepted until July 15, 2016.
6. Publish second draft of the report with summary of public comments.
7. Develop final report with recommendations, including proposed legislative language as deemed appropriate by the Committee.
8. Present final report and recommendations to the full Board for review and approval.
9. Forward to the Director and Secretary for review and comment.
10. Prepare the final report for reply to Delegate Orrock as well as publication and electronic posting and dissemination to interested parties.

Background on the National Registry of Certified Medical Examiners

In August 2005, Congress enacted the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users*. It required the Secretary of Transportation to establish a Medical Review Board to provide FMCSA with medical advice and recommendations on medical standards and guidelines for the physical qualifications of operators of commercial motor vehicles, medical examiner education, and medical research. The measure also authorized the establishment of the National Registry of Certified Medical Examiners (National Registry)³ as a means to improve highway safety by producing trained, certified medical examiners that can assess whether a commercial driver meets FMCSA physical standards and guidelines.⁴ The National Registry was established April 20, 2012 upon publication of final FMCSA rules. Beginning May 21, 2014, only a Certified Medical Examiner (ME) listed on the National Registry is permitted to perform the proscribed physicals, prepare medical examiner certificates and submit medical examination results forms monthly to the National Registry.⁵

Risk of Harm to the Consumer and Specialized Skills and Training

What are the competencies required of MEs certified through the U.S. Department of Transportation's Federal Motor Carrier Safety Administration?

Currently there are three requirements to perform FMCSA commercial driver license (hereafter "CDL") physical exams: (1) a valid health professional license that allows physical examination performance, (2) FMCSA's physical qualification standards training, and (3) passage of the Medical Examiner Certification Test.

- Which health professions are currently eligible for this national certification in Virginia and elsewhere?

Doctors of medicine and osteopathy, physician assistants, nurse practitioners and other advanced practice registered nurses are currently eligible in Virginia. In the majority of other states, the list also includes doctors of chiropractic.

Based upon search of the National Registry on June 1, 2016, Virginia, Michigan, Washington State, and Puerto Rico were the only jurisdictions that did *not* authorize Doctors of Chiropractic to perform FMCSA physical examinations. An updated search on June 15, 2016

³ 49 U.S. Code § 31149, accessible at <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVI-partB-chap311-subchapIII-sec31149.htm>

⁴ Full regulations are available at <https://www.fmcsa.dot.gov/regulations>, with specific details on definitions and form completion provided at <https://www.fmcsa.dot.gov/regulations/title49/section/391.43>. The latest version is Form MCSA – 5875 available at: <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/MedicalExaminationReportFormMCSA5875.pdf> which replaces Form 649F (6045) archived version accessible at: https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Medical_Examination_Report_for_Commercial_Driver_Fitness_Determination_0.pdf.

⁵ The National Registry's homepage is accessible at <https://nationalregistry.fmcsa.dot.gov/NRPublicUI/home.seam>.

expanded the list to include New York.⁶ Further information on the scope of practice and specific restrictions on chiropractic practice in these states is provided later in this report.

▪ **Which training programs are acceptable? How are they accredited?**

Appendix 2 provides Information on approved nationally accrediting organizations and training organizations identified Virginia addresses. To become accredited, organizations must develop training that conforms to current FMCSA regulations and guidelines, including the Core Curriculum specifications. For details, refer to Table 2 with contents extracted from the FMCSA website.⁷ One requirement is that they are authorized to provide continuing education by a nationally recognized medical (health) profession accrediting organization. They must also provide proof of participation and FMCSA point of contact information to training participants.

Table 2 –Guidance for the Core Curriculum Specifications

... The guidance for the core curriculum specifications is intended to assist training organizations in developing programs that would be used to fulfill the proposed requirements in the Federal Motor Carrier Safety Administration’s (FMCSA) final rule for the National Registry of Certified Medical Examiners (National Registry). The final rule states that a medical examiner must complete a training program. FMCSA explained in the preamble to the final rule that training providers and organizations must follow the core curriculum specifications in developing training programs for medical examiners who apply for listing on the Agency’s National Registry. This training prepares medical examiners to:

- Apply knowledge of FMCSA’s driver physical qualifications standards and advisory criteria to findings gathered during the driver’s medical examination; and
- Make sound determinations of the driver’s medical and physical qualifications for safely operating a commercial motor vehicle (CMV) in interstate commerce. The rule, 49 CFR 290.105(b), lists eight topics which must be covered in the core curriculum specifications. The core curriculum specifications are arranged below by numbered topic, followed by guidance to assist training providers in developing programs based on the core curriculum specifications.

Guidance for Each of the Core Curriculum Specifications

(1) Background, rationale, mission and goals of the FMCSA medical examiner’s role in reducing crashes, injuries and fatalities involving commercial motor vehicles.

Mission and Goals of Federal Motor Carrier Safety Administration (FMCSA)

- Discuss the history of FMCSA and its position within the Department of Transportation including its establishment by the Motor Carrier Safety Improvement Act of 1999 and emphasize FMCSA’s Mission to reduce crashes, injuries and fatalities involving large trucks and buses.

Role of the Medical Examiner

- Explain the role of the medical examiner as described in 49 CFR 391.43.

⁶ The New York Board for Chiropractic determined that FCMSA physical examinations were outside the scope of practice according to their statutes. All New York licensed chiropractic MEs were unilaterally removed from the National Registry due to this decision. ME certificates issued by New York licensed chiropractors through June 1, 2016, however, remain valid until their expiration date.

⁷ https://nationalregistry.fmcsa.dot.gov/NRPublicUI/documents/National_Registry_Core_Curriculum.pdf

(Referenced July 11, 2016)

(2) Familiarization with the responsibilities and work environment of commercial motor vehicle (CMV) operations.

The Job of CMV Driving

- Describe the responsibilities, work schedules, physical and emotional demands and lifestyle among CMV drivers and how these vary by the type of driving.
- Discuss factors and job tasks that may be involved in a driver's performance, such as:
 - Loading and unloading trailers;
 - Inspecting the operating condition of the CMV; and
 - Work schedules:
 - irregular work, rest, and eating patterns / dietary choices.

(3) Identification of the driver and obtaining, reviewing, and documenting driver medical history, including prescription and over-the-counter medications.

Driver Identification and Medical History:

- Discuss the importance of driver identification and review of the following elements of the driver's medical history as related to the tasks of driving a CMV in interstate commerce.
- Inspect a State-issued identification document with the driver's photo to verify the identity of the individual being examined; identify the commercial driver's license or other types of driver's license.
- Identify, query and note issues in a driver's medical record and/or health history as available, which may include:
 - specific information regarding any affirmative responses in the history;
 - any illness, surgery, or injury in the last five years;
 - any other hospitalizations or surgeries;
 - any recent changes in health status;
 - whether he/she has any medical conditions or current complaints;
 - any incidents of disability / physical limitations;
 - current medications and supplements, and potential side effects, which may be potentially disqualifying;
 - his/ her use of recreational/addictive substances (e.g., nicotine, alcohol, inhalants, narcotics or other habit-forming drugs);
 - disorders of the eyes (e.g., retinopathy, cataracts, aphakia, glaucoma, macular degeneration, monocular vision);
 - disorders of the ears (e.g., hearing loss, hearing aids, vertigo, tinnitus, implants);
 - cardiac symptoms and disease (e.g., syncope, dyspnea, chest pain, palpitations, hypertension, congestive heart failure, myocardial infarction, coronary insufficiency, or thrombosis);
 - pulmonary symptoms and disease (e.g., dyspnea, orthopnea, chronic cough, asthma, chronic lung disorders, tuberculosis, previous pulmonary embolus, pneumothorax);
 - sleep disorders (e.g., obstructive sleep apnea, daytime sleepiness, loud snoring, other);
 - gastrointestinal disorders (e.g., liver disease, digestive problems, hernias);
 - genitourinary disorders (e.g., kidney stones and other renal conditions, renal failure, hernias);
 - diabetes mellitus:
 - current medications (type, potential side effects, duration on current medication:)
 - complications from diabetes; and
 - presence and frequency of hypoglycemic/hyperglycemic episodes/reactions;
 - other endocrine disorders (e.g., thyroid disorders, interventions / treatment);
 - musculoskeletal disorders (e.g., amputations, arthritis, spinal surgery);
 - neurologic disorders (e.g., loss of consciousness, seizures, stroke / transient ischemic attack, headaches/ migraines, numbness / weakness) ; or
 - psychiatric disorders (e.g., schizophrenia, severe depression, anxiety, bipolar disorder, or other conditions) that could impair a driver's ability to safely function.

(4) Performing, reviewing and documenting the driver's medical examination.

Physical Examination (Qualification/Disqualification Standards (§ 391.41 and 391.43))

- Explain the FMCSA physical examination requirements and advisory criteria in relationship to conducting the driver's physical examination of the following:
 - Eyes (§ 391.41(b)(10))
 - equal reaction of both pupils to light;
 - evidence of nystagmus and exophthalmos;
 - evaluation of extraocular movements.
 - Ears (§ 391.41(b)(11))
 - abnormalities of the ear canal and tympanic membrane;
 - presence of a hearing aid.
 - Mouth and throat (§ 391.41(b)(5))
 - conditions contributing to difficulty swallowing, speaking or breathing;
 - Neck (§ 391.41(b)(7))
 - range of motion;
 - soft tissue palpation/examination (e.g., lymph nodes, thyroid gland).
 - Heart (§ 391.41(b)(4) and (b)(6))
 - chest inspection (e.g., surgical scars, pacemaker / implantable automatic defibrillator);
 - auscultation for thrills, murmurs, extra sounds, and enlargement;
 - blood pressure and pulse (rate and rhythm);
 - additional signs of disease (e.g., edema, bruits, diaphoresis, distended neck veins).
 - Lungs, chest, and thorax (§ 391.41(b)(5))
 - respiratory rate and pattern;
 - auscultation for abnormal breath sounds;
 - abnormal chest wall configuration/palpation.
 - Abdomen (§ 391.41(a)(3)(i) and 391.43(f))
 - surgical scars;
 - palpation for enlarged liver or spleen, abnormal masses or bruits/ pulsation, abdominal tenderness, hernias (e.g., inguinal, umbilical, ventral, femoral or other abnormalities).
 - Spine (§ 391.41(b)(7))
 - surgical scars and deformities;
 - tenderness and muscle spasm;
 - loss in range of motion and painful motion;
 - spinal deformities
 - Extremities and trunk (§ 391.41(b)(1), (b)(4) and (b)(7))
 - gait, mobility, and posture while bearing his/her weight; limping or signs of pain ;
 - loss, impairment, or use of orthosis;
 - deformities, atrophy, weakness, paralysis, or surgical scars;
 - elbow and shoulder strength, function, and mobility;
 - handgrip and prehension relative to requirements for controlling a steering wheel and gear shift;
 - varicosities, skin abnormalities, and cyanosis, clubbing, or edema;
 - leg length discrepancy; lower extremity strength, motion, and function;
 - other abnormalities of the trunk.
 - Neurologic status (§ 391.41(b)(7), (b)(8) and (b)(9))
 - impaired equilibrium, coordination or speech pattern (e.g., ataxia);
 - sensory or positional abnormalities;
 - tremor;
 - radicular signs;
 - Mental status (§ 391.41(b)(9))
 - comprehension and interaction;
 - cognitive impairment;
 - signs of depression, paranoia, antagonism, or aggressiveness that may require follow-up with a mental health professional.

(5) Performing, obtaining and documenting diagnostic tests and obtaining additional testing or medical opinion from a medical specialist or treating physician.

Diagnostic Testing and Further Evaluation

- Describe the FMCSA diagnostic testing requirements and the medical examiner's ability to request further testing and evaluation by a specialist.
 - Urine test for specific gravity, protein, blood and glucose (§391.41(a)(3)(i));
 - Whisper or audiometric testing (§ 391.41(b)(11));
 - Vision testing for color vision, distant acuity, horizontal field of vision and presence of monocular vision (§ 391.41(b)(10));
 - Other testing as indicated to determine the driver's medical and physical qualifications for safely operating a CMV.
 - Refer to a specialist a driver who exhibits evidence of any of the following disorders (§ 391.43(e) and (f)):
 - vision (e.g., retinopathy, macular degeneration);
 - cardiac (e.g., myocardial infarction, coronary insufficiency, blood pressure control);
 - pulmonary (e.g., emphysema, fibrosis);
 - endocrine (e.g., diabetes);
 - musculoskeletal (e.g., arthritis, neuromuscular disease);
 - neurologic (e.g., seizures);
 - sleep (e.g., obstructive sleep apnea);
 - mental/ emotional health (e.g., depression, schizophrenia); or
 - other medical condition(s) that may interfere with ability to safely operate a CMV.

(6) Informing and educating the driver about medications and non-disqualifying medical conditions that require remedial care.

Health Counseling

- Inform course participants of the importance of counseling the driver about:
 - possible consequences of non-compliance with a care plan for conditions that have been advised for periodic monitoring with primary healthcare provider;
 - possible side effects and interactions of medications (e.g., narcotics, anticoagulants, psychotropics) including products acquired over-the-counter (e.g., antihistamines, cold and cough medications or dietary supplements) that could negatively affect his/her driving;
 - the effect of fatigue, lack of sleep, poor diet, emotional conditions, stress, and other illnesses that can affect safe driving;
 - if he/she is a contact lens user, the importance of carrying a pair of glasses while driving;
 - if he/she uses a hearing aid, the importance of carrying a spare power source for the device while driving;
 - if he/she has a history of deep vein thrombosis, the risk associated with inactivity while driving and interventions that could prevent another thrombotic event;
 - if he/she has a diabetes exemption, that he/she should:
 - carry a rapidly absorbable form of glucose while driving;
 - self-monitor blood glucose one hour before driving and at least once every four hours while driving;
 - comply with each condition of his/her exemption;
 - plan to submit glucose monitoring logs for each annual recertification;
 - corrective or therapeutic steps needed for conditions which may progress and adversely impact safe driving ability (e.g., seek follow-up from primary care physician);
 - steps needed for reconsideration of medical certification if driver is certified with a limited interval, e.g., the return date and documentation required for extending the certification time period.

(7) Determining driver certification outcome and period for which certification should be valid.

Assessing the Driver's Qualifications and Disposition

- Explain how to assess the driver's medical and physical qualification to operate a CMV safely in interstate commerce using the medical examination findings weighed against the physical and mental demands associated with operating a CMV by:
 - Considering a driver's ability to
 - move his/her body through space while climbing ladders; bend, stoop, and crouch; enter and exit the cab;
 - manipulate steering wheel;
 - perform precision prehension and power grasping;
 - use arms, feet, and legs during CMV operation;
 - inspect the operating condition of a tractor and/or trailer;
 - monitor and adjust to a complex driving situation; and
 - consider the adverse health effects of fatigue associated with extended work hours without breaks;
 - Considering identified disease or condition(s) progression rate, stability, and likelihood of gradual or sudden incapacitation for documented conditions (e.g., cardiovascular, neurologic, respiratory, musculoskeletal and other).

Medical Certificate Qualification/Disqualification Decision and Examination Intervals

- Discuss the medical examiner's obligation to consider potential risk to public safety and the driver's medical and physical qualifications to drive safely when issuing a Medical Examiner's Certificate, when to qualify/disqualify the driver and how to determine the expiration date of the certificate by:
 - using the requirements stated in the FMCSRs, with nondiscretionary certification standards to disqualify a driver
 - with a history of epilepsy;
 - with diabetes requiring insulin control (unless accompanied by an exemption);
 - when vision parameters (e.g., acuity, horizontal field of vision, color) fall below minimum standards unless accompanied by an exemption;
 - when hearing measurements with or without a hearing aid fall below minimum standards;
 - currently taking methadone;
 - with a current clinical diagnosis of alcoholism; or
 - who uses a controlled substance including a narcotic, an amphetamine, or another habit-forming drug without a prescription from the treating physician;
 - using clinical expertise, disqualify a driver when evidence shows a driver has a medical condition that in your opinion will likely interfere with the safe operation of a CMV;
 - certifying a driver for an appropriate duration of certification interval;
 - if he/she has a condition for which the medical examiner is deferring the driver's medical certification or disqualifying the driver, informing the driver of the reasons which may include:
 - a vision deficiency (e.g., retinopathy, macular degeneration);
 - the immediate post-operative period;
 - a cardiac event (e.g., myocardial infarction, coronary insufficiency);
 - a chronic pulmonary exacerbation (e.g., emphysema, fibrosis);
 - uncontrolled hypertension;
 - endocrine dysfunctions (e.g., insulin-dependent diabetes);
 - musculoskeletal challenges (e.g., arthritis, neuromuscular disease);
 - a neurologic event (e.g., seizures, stroke, TIA);
 - a sleep disorder (e.g., obstructive sleep apnea); or
 - mental health dysfunctions (e.g., depression, bipolar disorder).

(8) FMCSA reporting and documentation requirements.

Documentation of Medical Examination Findings

Demonstrate the required FMCSA medical examination report forms, appropriate methods for recording the medical examination findings and the rationale for certification decisions including:

- Medical Examination Report Form
 - identification of the driver;
 - use of appropriate Medical Examination Report form;
 - assurance that driver completes and signs driver's portion of the Medical Examination Report form;
- Examination Report form;
 - specifics regarding any affirmative response on the driver's medical history;
 - height/weight, blood pressure, pulse;
 - results of the medical examination, including details of abnormal findings;
 - audiometric and vision testing results;
 - presence of a hearing aid and whether it is required to meet the standard;
 - if obtained, funduscopic examination results;
 - the need for corrective lenses for driving;
 - presence or absence of monocular vision and need for a vision exemption;
 - if driver has diabetes mellitus and is insulin dependent, the need for a diabetes exemption;
 - other laboratory, pulmonary, cardiac testing performed; and
 - the reason(s) for the disqualification and/or referral.
 - Other supporting documentation
 - if driver has current vision exemption, include the ophthalmologist's or optometrist's report;
 - if a driver has a diabetes exemption, include the endocrinologist's and ophthalmologist's/optometrist's report;
 - treating physician's work release;
 - if obtained, specialist's evaluation report;
 - if the driver has a current Skill Performance Evaluation Certificate, include it; and
 - results of Substance Abuse Professional evaluations for alcohol and drug use and/or abuse for a driver with
 - alcoholism who completed counseling and treatment to the point of full recovery.
 - Medical Examiner's Certificate
 - certification status, which may require:
 - waiver / exemption;
 - wearing corrective lenses;
 - wearing a hearing aid; or
 - a Skill Performance Evaluation Certificate;
 - complete and accurate documentation on medical certification card including:
 - the examiner's name, examination date, office address, and telephone number and Medical Examiner signature; and
 - the driver's signature.

To aid training organizations and medical examiners (ME) FMCSA has written and posted four detailed publications online. (1) "Information Manual for Training Organizations" describes the National Registry Program and explains how to become a training provider.⁸ (2) "Sample Training" provides an example curriculum that covers all eight Core Curriculum topics.⁹ (3) "Complete Guide to Medical Examiner Certification" outlines the steps to earn

⁸ <https://nationalregistry.fmcsa.dot.gov/NRPublicUI/documents/InformationManualforTrainingOrganizations.pdf>

⁹ https://nationalregistry.fmcsa.dot.gov/NRPublicUI/documents/ME_Training_Document.pdf

ME certification, including training and testing, and how to maintain certification or become recertified if the requirements to remain active are not met.¹⁰ Currently being updated, the “FMCSA Medical Examiner Handbook” informs and guides MEs about their role and duties.^{11 12}

- **What are the competencies (knowledge, skills, and abilities) assessed by the national FMCSA Medical Examiner Certification Test?**

In 2005, FMCSA commissioned *A National Role Delineation Study of FMCSA Medical Examiners* published in August 2007.¹³ This was the first of its kind psychometric review aimed at defining the set of essential competencies associated with medical examiners who conduct commercial driver physical examinations. The results of this study helped to form the basis of the core training curriculum described in Table 2 on the preceding pages and the test blueprint for the Medical Examiner Certification Test (detailed in the “Complete Guide to Medical Examiner Certification”).

To provide subject matter expertise needed for the study, FMCSA assembled a panel drawn from the nationwide ME population comprised of advanced practice nurses, doctors of chiropractic, medicine, and osteopathy, and physician assistants. The study was not designed to be a traditional job analysis of any profession, as a whole; rather its focus was on identifying a subset of specific tasks and the attendant knowledge, skills, and abilities (KSAs) of direct relevance to successfully performing physicals according to FMCSA’s explicit requirements.¹⁴ So, each task statement describes observable ME behaviors demonstrated in conducting the physicals as well as the corresponding KSAs.

The resulting Medical Examiner Certification Test blueprint has two major content domains: “Driver’s Medical Information” and “Determination of Driver’s Qualifications and Disposition,” with each further divided into minor domains (see Table 3- Major and Minor Certification Test Content Domains). Test items assess three levels of cognitive complexity ranging from recall of memorized facts to in depth analysis of complicated medical history

¹⁰ https://nationalregistry.fmcsa.dot.gov/NRPublicUI/documents/Complete_Guide_to_ME_Certification.pdf

¹¹ Once updated, it will be accessible at:
<https://nationalregistry.fmcsa.dot.gov/ResourceCenter/documents/FMCSAMedicalExaminerHandbook-2014MAR18.pdf>

¹² Note that there is a new Medical Examination Report Form (for Commercial Driver Certification), Form MCSA-5875 <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/MedicalExaminationReportFormMCSA5875.pdf> which replaces Commercial Driver Fitness Determination Form 649-F (6045). The new form expands space for recording patient history and is designed to better enable online reporting.

¹³ http://www.ntl.bts.gov/lib/30000/30100/30121/RDS_Report_Appendices_41008.pdf

¹⁴ *A National Role Delineation Study of FMCSA Medical Examiners* Appendix Z, “Knowledge, Skills, and Abilities Statements (KSAs)” http://www.ntl.bts.gov/lib/30000/30100/30121/RDS_Report_Appendices_41008.pdf

scenarios. Moderately complex items fall in between and require the application of specific knowledge to derive conclusions based upon medical information encountered in the question. The full “Detailed Content Outline” is available as Appendix B within the Complete Guide to Medical Examiner Certification. Extracts of the outline are also available in Appendix 3 of this report.

Table 3 – Major and Minor Certification Test Content Domains

Driver’s Medical Information	Determination of Driver’s Qualifications and Disposition
A. Identification and History	A. Health Education Counseling
B. Physical Examination and Evaluation	B. Risk Assessment
C. Diagnostic Tests and/or Referrals	C. Certification Outcomes and Intervals
D. Documentation of Ancillary Information	

▪ **Is there evidence of harm to the consumer related to FMCSA qualifying examinations performed by chiropractors?**

No evidence of relevant consumer harm was uncovered from multiple searches conducted from publically available state licensing board disciplinary records and malpractice cases.

Additionally, information presented from commenters during the June 28, 2016 Public Hearing and in writing until July 15, 2016 indicated the commenters were unaware of any such evidence of harm, to date (see Appendix 4.)

▪ **Does a potential for fraud exist because of the inability of the public to make informed choice in selecting a competent practitioner?**

All consumers with access to the internet have access to the National Registry. It is *the* source of the latest information on the availability and certification status of all CMEs and is accessible at:

<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/home.seam>

The search function yields a listing of each current and former CME which can be further broken out by state, distance, and profession. The National Registry also includes notification and reasons if an ME no longer accepting or authorized to accept clients.

The consumer may be confused by the fact that 46 states (and D.C.) authorize doctors of chiropractic, but Virginia, Michigan, Washington State, and New York¹⁵ do not.

¹⁵ and Puerto Rico

Each state defines the scope of practice and limitations somewhat differently. Appendix 5 – Relevant States’ Scopes of Practice Statutes is provided as a reference¹⁶ for the Committee to compare examples of statutory provisions from states that do and do not authorize.

For additional reference, the Federation of Chiropractic Licensing Boards provides an “Official Directory” staff has downloaded for each state which provides a summary of each state’s scope of practice. It is also accessible at <http://directory.fclb.org/>.

For all CME practitioner types, it may become necessary to refer to the client for further testing and evaluation by a specialist. It is important for the public to understand this may be required before a final decision is rendered by the CMW, whether an NP, PA, MD, DO, or DC.

▪ **Do Virginia’s Chiropractor licensure requirements differ substantively from other states that allow Chiropractors to perform FMCSA commercial driver license physical examinations?**

No.

The Federation of Chiropractic Licensing Boards “Official Directory”¹⁷ was referenced to determine:

- All states require graduation from four-year doctor of chiropractic graduate program accredited by a body approved by the U.S. Department of Education and board approval. In most cases, the Council on Chiropractic Education (CCE) is expressly identified as is the current sole accrediting organization for chiropractic programs in the U.S. Thirty-four states, including Virginia, do not require a bachelor’s degree. However, pre-requisites for admission to the doctoral programs are specific to each school. Pre-medical coursework is required by all. There are currently 15 CCE accredited programs in the U.S
- All states also require passage of the NBCE. There is some variation about which parts; however, the vast majority of states, including Virginia, require Parts I, II, III, and IV. The remaining states *accept* all parts but some only *require* I, II and IV (Arkansas), or I through III (Illinois). North Carolina requires a higher passing score on each part, 475 vs. 375.
- Other examinations to address specific topics such as acupuncture and physiotherapy are available and used by some, but not all boards.

¹⁶ Chapter 29 of Title 54.1 of the *Code of Virginia* and the Virginia Board of Medicine’s Regulations §18 VAC 85-20-10*et seq.* are incorporated by reference in their entirety.

¹⁷ <http://directory.fclb.org/US.aspx> Accessed June 1, 2016.

Table 4: NBCE Examination Parts

<p>Part I tests six basic science areas including general anatomy, spinal anatomy, physiology, chemistry, pathology, and microbiology</p> <p>Part I's Test Plan and preparation list of reference texts are available at: http://mynbce.org/wp-content/uploads/2015/05/part1-plan.pdf http://mynbce.org/prepare/part-i/part-i-test-plan/</p>
<p>Part II tests clinical science areas including general diagnosis, neuromusculoskeletal diagnosis, diagnostic imaging, principles of chiropractic, chiropractic practice, and associated clinical sciences.</p> <p>Part II's Test Plan and preparation list of reference texts are available at: http://mynbce.org/wp-content/uploads/2015/05/part2-plan.pdf http://mynbce.org/wp-content/uploads/2015/05/part2-ref.pdf</p>
<p>Part III addresses nine clinical areas: case history, physical examination, neuromusculoskeletal examination, roentgenologic examination, clinical laboratory and special studies, diagnosis or clinical impression, chiropractic techniques, supportive techniques, and case management.</p> <p>Part III's Test Plan and preparation list of reference texts are available at: http://mynbce.org/wp-content/uploads/2015/05/part3-plan.pdf http://mynbce.org/wp-content/uploads/2015/05/part3-ref.pdf</p>
<p>Part IV National Practical Examination assesses three important clinical areas: diagnostic imaging, chiropractic technique and case management skills.</p> <p>Part IV's Test Plan is available at: http://mynbce.org/prepare/part-iv/part-iv-test-plan/</p>

Scope of Practice

- **Do Chiropractors who are on the FMCSA National Registry of MEs from other states perform commercial driver physical examinations differently than the other professions so authorized?**

There is no known evidence that suggests CMEs from different professions perform FMCSA CDL physicals differently from one another. As noted earlier, the specific tasks and KSAs

detailed in the National Role Delineation Study were developed jointly with the nationally assembled panel of medical, osteopathic, and chiropractic doctors, advanced practice nurses, and physician assistants. The intent was to determine the specific tasks that reflect observable ME behaviors, without reference to a respective profession.

Economic Costs

- **If the data are available, what are the typical fees for performing FMCSA physical examinations in Virginia? In adjoining state? Nationally?**

Published information relative to this question was not available.

- **Is there evidence that expanding the scope of practice of Chiropractors to include these examinations increases costs for services, increases salaries for those employed by health delivery organizations, restricts other professions in providing care, or would have deleterious economic effects? If data are available, address issues related to supply and demand and distribution of resources including discussion of insurance reimbursement.**

There is little information available directly responsive to this series of questions, and no public comment that implied that including Virginia's chiropractors on the National Registry would have a deleterious economic effect.

In public comment, it was reported that Virginia chiropractors had, indeed, been performing CDL examinations prior to the May 2014 change in federal regulation. For some it had been for decades. Although there is no "pre-post" data available on the numbers of CDL exams provided and the relative costs, it is unlikely that significant changes would be detectable in such a short period of time.

The overall number of National Registry participants with Virginia addresses as of late June was 23 (see Appendix 6 – Virginia's FMCSA's Certified Medical Examiner National Registry Listing). Whether this number is sufficient to meet the demand is difficult to say because, as was pointed out in public comment, the National Registry is federal, a driver may go to any CME in any state and the medical report apply to his state's licensure. An example is the case of a Virginia chiropractor also licensed in a Maryland (an authorizing state) who could perform FMCSA CDL physicals in his Maryland office for Virginia DMV acceptance.

<http://directory.fclb.org/Statistics/RatioofLicensestoPopulation,US.aspx>

Appendices

DRAFT

Appendix 1 – Letter from Delegate Orrock, House Bill 1098 (2016), and House Bill



ROBERT D. "BOBBY" ORROCK
POST OFFICE BOX 418
THOMASVILLE VIRGINIA 22985
FIFTY FOURTH DISTRICT

COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND



COMMITTEE ASSIGNMENTS
HEALTH, WELFARE AND INSTITUTIONS (HEALTH)
FINANCE
AGRICULTURE, CREEKWAYS AND
NATURAL RESOURCES
RULES

February 4, 2016

David Brown, DC Director
Department of Health Professions
9960 Mayland Drive, STE 300
Henrico, VA 23233-1463

Re: House Bill 1098 – Chiropractors and CDL Physicals

Dear Dr. Brown:

As chairman of the Health Welfare and Institutions Committee, I am writing to you regarding House Bill 1098 which has been introduced by Delegate Ron Villanueva. The legislation seeks to include within the scope of practice of chiropractors the ability to perform commercial driver's license "CDL" physicals. Senator Newman had virtually the same bill in the 2015 session which did not pass the House of Delegates.

Since this issue has been raised for two consecutive years, I am requesting that you have the Virginia Board of Health Professions determine if chiropractors do or do not have the requisite education and training to perform CDL physicals as set forth in federal regulations. In doing so it would be most helpful if you could address how the education and training does or does not exist for each element of the CDL physical according to the physical form that is required for use in the federal regulations.

I would appreciate receiving a report back from you by November 1, 2016 so that I may evaluate it with Delegate Villanueva and the stakeholders.

Thank you in advance for your assistance.

Sincerely,

Robert D. "Bobby" Orrock, Sr.

CC: The Honorable Ron A. Villanueva

2016 SESSION

INTRODUCED

16102612D

HOUSE BILL NO. 1098
Offered January 13, 2016
Prefiled January 13, 2016

A BILL to amend and reenact § 54.1-2900 of the Code of Virginia, relating to practice of chiropractic; scope.

Patrons—Villanueva and Hugo

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900 of the Code of Virginia is 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.).

"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.

"Board" means the Board of Medicine.

"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.

"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 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.

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

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

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

"Patient care team physician" means a physician who is actively licensed to practice medicine in the 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.

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

"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.

INTRODUCED

HB1098

04-01-01-01-01

59 power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or
60 condition resulting from occupational activity immediately upon the onset of such injury or condition;
61 and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the
62 patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or
63 dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

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

68 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
69 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
70 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
71 medicines, serums or vaccines. *The practice includes performing the physical examinations of applicants*
72 *for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12.*

73 "Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical
74 histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and
75 other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk
76 management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other
77 diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family
78 medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v)
79 evaluating the patient's and family's responses to the medical condition or risk of recurrence and
80 providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community
81 resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii)
82 providing written documentation of medical, genetic, and counseling information for families and health
83 care professionals.

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

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

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

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

106 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
107 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
108 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
109 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
110 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
111 observation and monitoring of signs and symptoms, general behavior, general physical response to
112 respiratory care treatment and diagnostic testing, including determination of whether such signs,
113 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
114 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
115 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
116 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
117 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care
118 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
119 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
120 osteopathic medicine, and shall be performed under qualified medical direction.

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

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

135 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
136 dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27
137 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic
138 procedures employing equipment that emits ionizing radiation that is limited to specific areas of the
139 human body.

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

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

INTRODUCED

HB1098

2015 SESSION

ENGROSSED

15103277D

SENATE BILL NO. 1244

Senate Amendments in [] — February 9, 2015

A BILL to amend and reenact § 54.1-2900 of the Code of Virginia, relating to practice of chiropractic; scope; certain physical examinations.

Patrons Prior to Engrossment—Senator Newman; Delegate: Filler-Corn

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2900. Definitions.

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

"Acupuncturist" means individuals approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, 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.).

"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.

"Board" means the Board of Medicine.

"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.

"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 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.

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

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

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

"Patient care team physician" means a physician who is actively licensed to practice medicine in the 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.

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

"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

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60 condition resulting from occupational activity immediately upon the onset of such injury or condition;
61 and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the
62 patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or
63 dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

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

68 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column,
69 and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not
70 include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
71 medicines, serums or vaccines. [*The practice includes performing the physical examinations of*
72 *applicants for a new commercial driver's license or commercial driver's instruction permit or a renewal*
73 *of such license or permit required pursuant to § 46.2-341.12. Upon meeting the requirements of*
74 *§ 390.103 of the Federal Motor Carrier Safety Regulations, the practice shall include performing the*
75 *physical examinations for a commercial driver's license or commercial learner's permit pursuant to*
76 *§ 46.2-341.12.]*

77 "Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical
78 histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and
79 other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk
80 management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other
81 diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family
82 medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v)
83 evaluating the patient's and family's responses to the medical condition or risk of recurrence and
84 providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community
85 resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii)
86 providing written documentation of medical, genetic, and counseling information for families and health
87 care professionals.

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

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

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

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

110 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
111 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
112 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
113 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
114 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
115 observation and monitoring of signs and symptoms, general behavior, general physical response to
116 respiratory care treatment and diagnostic testing, including determination of whether such signs,
117 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
118 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
119 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
120 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
121 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care

122 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
123 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
124 osteopathic medicine, and shall be performed under qualified medical direction.

125 "Qualified medical direction" means, in the context of the practice of respiratory care, having readily
126 accessible to the respiratory care practitioner a licensed practitioner of medicine or osteopathic medicine
127 who has specialty training or experience in the management of acute and chronic respiratory disorders
128 and who is responsible for the quality, safety, and appropriateness of the respiratory services provided
129 by the respiratory care practitioner.

130 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,
131 podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i)
132 performs, may be called upon to perform, or who is licensed to perform a comprehensive scope of
133 diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is
134 delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of
135 patient and staff from unnecessary radiation, the appropriate exposure of radiographs or other procedures
136 which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is
137 exposed.

138 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,
139 dental hygienist or person who is otherwise authorized by the Board of Dentistry under Chapter 27
140 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic
141 procedures employing equipment which emits ionizing radiation which is limited to specific areas of the
142 human body.

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

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

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SB124E

Appendix 2 - FMCSA Certified Medical Examiners National Registry Training Organization Examples and Listing*with Virginia Addresses

Source: <https://nationalregistry.fmcsa.dot.gov/NRPublicUI/TrainingOrgOverview.seam?nav=Acc>

Examples of Organizations that provide accreditation for healthcare professional training

- Accreditation Council for Continuing Medical Education (ACCME)
- Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA)
- American Academy of Nurse Practitioners (AANP)
- American Academy of Physician Assistants (AAPA)
- American Association of Occupational Health Nurses (AAOHN)
- American College of Occupational and Environmental Medicine (ACOEM)
- American Osteopathic College of Occupational and Preventive Medicine (AOCOPM)
- American Medical Association (AMA)
- American Nurses Credentialing Center (ANCC)
- American Osteopathic Association (AOA)
- National Commission on Certification of Physician Assistants (NCCPA)
- Providers of Approved Continuing Education (PACE)

Note: The Federal Motor Carrier Safety Administration does not endorse or give preference to organizations that accredit healthcare training; this is just an example of some of the groups.

Source:

<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/TrainingOrgList.seam?firstResult=20&sort=nrTrainingOrgAddress.nrState&dir=desc&pageSize=5&logic=and&cid=5487648>

Data Download June 21, 2016

Training Organization	Street Address/other information provided	Location	Online?	Classroom?	Self Guided?
1 A Healthcare Division of ECPI University	100 Constitution Drive phone # 757-518-9100	Virginia Beach	Y	N	Y
2 GLOB'ALL PRIMARY CARE	50S. Pickett Street phone #703-823-4000	Alexandria	Y	N	Y
3 _Accredited FMCSA MedPro e-learning Course	5555 Greenwich Street, phone # 757-739-2795	Virginia Beach	Y	N	Y
4 _MedPro Professional Health Studies	100 Constitution Drive phone # 757-419-3700 (same contact as above)	Virginia Beach	Y	N	Y
Accredited MedPro FMCSA Medical Examiner E-5 Learning Course	"DOT Preferred Streamline Approach To Certification," no street addr, but phone # 757-419-3700	Virginia Beach	Y	N	Y
Accredited MedPro FMCSA Medical Examiner E-6 Learning Certification Course	"Recommended and Preferred by Physicians Streamline Approach for Certification," no street addr, but phone number 757-419-3700	Newport News	Y	N	Y
MedPro Accredited FMCSA Medical Examiner E-learn 7 Course	"Streamline Approach DOT Preferred," no street addr, but phone number 757-419-3700	Virginia Beach	Y	N	Y
8 Accredited FMCSA NedOri e-learning Course	"Streamline Approach DOT Preferred," no street addr, website down - phone number provided	Virginia Beach	Y	N	Y
9 _A Professional Health Studies Org - MedPro	11820 Fountain Way	Newport News	Y	N	Y
10 Accredited MedPro FMCSA E-Learn Course	"Streamline Approach DOT Preferred," no street addr, website down - phone number provided	Virginia Beach	Y	N	Y
11 Virginia Academy of Family Physicians	1503 Santa Rosa Road	Richmond	N	Y	N

*NOTE: The FMCSA website indicates that the information about organizations that can provide the required training for certification and listing on the National Registry is made available for applicants' convenience. It does not convey FMCSA approval or recommendation of the organization. They note that it is the responsibility of the applicant to determine if the training meets the requirements of FMCSA regulations, especially those in §49 CFR 390.105. They note further that applicants may obtain training from any organization, regardless of healthcare specialty offering the training, given it meets the requirements even if not posted in the list.

Appendix 3 - Extract from *Complete Guide to Medical Examiner Certification- Appendix B*

 U.S. Department of Transportation Federal Motor Carrier Safety Administration National Registry of Certified Medical Examiners (National Registry) FMCSA Medical Examiner Detailed Content Outline Open cells show an examination could include items from indicated cognitive levels. Shaded cells prevent appearance of items on examinations.	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
I. DRIVER'S MEDICAL INFORMATION	23	33	14	70
A. Identification and History	4	6	10	20
1. Verify the identity of the driver				
2. Ensure the driver signs the driver's statement about health history				
3. Identify, query, and note issues in a driver's medical record and / or health history as available, which may include				
a. specifics regarding any affirmative responses in the history				
b. any illness, surgery, or injury in the last five years				
c. any other hospitalizations or surgeries				
d. any recent changes in health status				
e. whether he / she has any medical conditions or current complaints				
f. any incidents of disability / physical limitations				
g. limitations placed during prior FMCSA exams				
h. current OTC and prescription medications and supplements, and potential side effects, which may be potentially disqualifying				
i. his or her use of recreational / addictive substances (e.g., nicotine, alcohol, inhalants)				
j. weight disorders (e.g., unexplained loss or gain, obesity)				
k. disorders of the eyes (e.g., retinopathy, cataracts, aphakia, glaucoma, macular degeneration, monocular vision)				
l. disorders of the ears (e.g., hearing loss, hearing aids, vertigo, Meniere's, tinnitus, implants)				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
m. cardiac symptoms (e.g., syncope, dyspnea, chest pain, palpitations)				
n. cardiovascular diseases (e.g., hypertension, congestive heart failure, myocardial infarction, coronary insufficiency, or thrombosis)				
o. hematologic disorders (e.g., bleeding disorders, anemia, cancer, organ transplant history)				
p. pulmonary symptoms (e.g., dyspnea, orthopnea, chronic cough)				
q. pulmonary diseases (e.g., asthma, chronic lung disorders, tuberculosis, previous pulmonary embolus, pneumothorax)				
r. sleep disorders (e.g., sleep apnea, narcolepsy, insomnia, daytime sleepiness, loud snoring, testing and / or treatments)				
s. gastrointestinal disorders (e.g., pancreatitis, ulcers, ulcerative colitis, cirrhosis, hepatitis, irritable bowel syndrome, hernias)				
t. genitourinary disorders (e.g., polycystic, nephrotic syndrome, kidney stones, renal failure, hernias)				
u. diabetes mellitus <ul style="list-style-type: none"> ▪ weight loss ▪ duration on current medications ▪ medication side effects ▪ complications from diabetes ▪ availability of emergency glucose supply ▪ presence and frequency of hypoglycemic / hyperglycemic episodes / reactions 				
v. other endocrine disorders (e.g., thyroid disorders, interventions / treatment)				
w. musculoskeletal disorders (e.g., amputations, arthritis, spinal surgery)				
x. neoplastic disorders (e.g., leukemia; brain, bone, breast, and lung cancer)				
y. substance use and abuse (e.g., alcohol, narcotics, illicit or legal drugs)				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
z. neurologic disorders (e.g., loss of consciousness, seizures, stroke / TIA, headaches / migraines, numbness / weakness)				
aa. psychiatric disorders (e.g., schizophrenia, depression, anxiety, bipolar, ADHD, interventions / treatment)				
bb. other conditions that could impair a driver's ability to safely function				
B. Physical Examination and Evaluation	8	15	2	25
1. Ensure the driver is properly clothed for the physical examination				
2. Record height and weight, and note whether a driver is overweight or underweight				
3. Examine the driver's eyes and note				
a. distant acuity in each and both eyes (Snellen comparable values)				
b. whether corrective lenses are required to meet the standard				
c. horizontal field of vision in each eye				
d. color recognition				
e. presence or absence of monocular vision				
f. reactivity to light and pupillary equality				
g. evidence of nystagmus and exophthalmos				
h. evaluation of extraocular movements				
i. fundoscopic examination results				
4. Examine the driver's ears and note				
a. abnormalities of the ear canal and tympanic membrane				
b. whisper test and / or audiometric results (in ANSI standard units) as indicated				
c. presence or absence of a hearing aid and whether required to meet the standard				
5. Examine the driver's mouth and throat, and note conditions that may interfere with breathing, speaking, or swallowing				
6. Examine the driver's neck and note				
a. range of motion				
b. soft tissue palpation / examination (e.g., lymph nodes, thyroid gland)				
7. Examine the driver's heart				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
a. chest inspection (e.g., surgical scars, pacemaker / IAD)				
b. thrills, murmurs, extra sounds, and enlargement				
c. blood pressure and pulse (rate and rhythm)				
d. additional signs of disease (e.g., edema, bruits, diaphoresis, distended neck veins)				
8. Examine the driver's lungs, chest, and thorax, excluding breasts, and note				
a. respiratory rate and pattern				
b. abnormal breath sounds				
c. abnormal chest wall configuration / palpation				
d. scars				
9. Examine the driver's abdomen, and note				
a. surgical scars				
b. an enlarged liver or spleen				
c. abnormal masses or bruits / pulsation				
d. abdominal tenderness				
e. hernias (e.g., inguinal, umbilical, ventral, femoral)				
10. Examine the driver's spine and note				
a. surgical scars and deformities				
b. tenderness and muscle spasm				
c. loss in range of motion and painful motion				
d. kyphosis, scoliosis, or other spinal deformities				
11. Examine the driver's extremities and note				
a. gait, mobility, and posture while bearing his or her weight; limping or signs of pain				
b. loss, impairment, or use of orthosis				
c. deformities, atrophy, weakness, paralysis, surgical scars,				
d. elbow and shoulder strength, function, and mobility				
e. handgrip and prehension relative to requirements for controlling a steering wheel and gear shift				
f. varicosities, skin abnormalities, and cyanosis, clubbing, or edema				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
g. leg length discrepancy; lower extremity strength, motion, and function				
12. Examine the driver's neurologic status and note				
a. impaired equilibrium, coordination or speech pattern (e.g., Romberg, finger to nose test)				
b. gait disorders				
c. sensory or positional abnormalities				
d. tremor				
e. radicular signs				
f. reflexes (e.g., asymmetric deep-tendon, normal / abnormal patellar and Babinski)				
13. Test the driver's urine and note specific gravity, protein, blood, and glucose				
14. Examine the driver's mental status and note				
a. comprehension and interaction				
b. cognitive impairment (e.g., orientation, intellect, memory, obsessions, circumstantial / tangential speech)				
c. signs of depression, paranoia, antagonism, or aggressiveness that may require follow-up with a mental health professional				
C. Diagnostic Tests and / or Referrals	6	10	2	18
1. Obtain additional information when indicated by				
a. audiometrics				
b. cardiovascular studies (e.g., electrocardiogram, stress test, ejection fraction, vascular studies)				
c. blood analyses (e.g., creatinine, electrolytes, toxicology, lipids, blood chemistries)				
d. chest radiograph				
e. respiratory tests (e.g., spirometry, diffusion, lung volumes, oximetry or arterial blood gas analysis with or without exercise)				
f. sleep studies				
g. drug level monitoring (e.g., digoxin, theophylline)				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
h. other tests				
2. Refer a driver who exhibits evidence of any of the following disorders for follow-up care and evaluation by an appropriate specialist or primary care provider				
<ul style="list-style-type: none"> ▪ vision (e.g., retinopathy, macular degeneration) ▪ cardiac (e.g., myocardial infarction, coronary insufficiency, blood pressure control) ▪ pulmonary (e.g., emphysema, fibrosis) ▪ endocrine (e.g., diabetes) ▪ musculoskeletal (e.g., arthritis, neuromuscular disease) ▪ neurologic (e.g., seizures) ▪ sleep (e.g., obstructive sleep apnea) ▪ mental / emotional health (e.g., depression, schizophrenia) 				
3. Refer a driver				
a. with limitations in extremity movement for an on-road performance evaluation and / or skill performance evaluation				
b. for conditions not directly related to certification, but detected during the examination				
D. Documentation of Ancillary Information	5	2	0	7
1. Record / include results as available with other information about the driver, which may include				
a. audiometrics				
b. cardiovascular studies (e.g., electrocardiogram, stress test, ejection fraction, vascular studies)				
c. blood analyses (e.g., creatinine, electrolytes, toxicology, lipids, blood chemistries)				
d. chest radiograph				
e. respiratory tests (e.g., spirometry, diffusion, lung volumes, oximetry or arterial blood gas analysis with or without exercise)				
f. sleep studies				
g. drug level monitoring (e.g., digoxin, theophylline)				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
h. other tests				
2. Refer a driver who exhibits evidence of any of the following disorders for follow-up care and evaluation by an appropriate specialist or primary care provider				
<ul style="list-style-type: none"> ▪ vision (e.g., retinopathy, macular degeneration) ▪ cardiac (e.g., myocardial infarction, coronary insufficiency, blood pressure control) ▪ pulmonary (e.g., emphysema, fibrosis) ▪ endocrine (e.g., diabetes) ▪ musculoskeletal (e.g., arthritis, neuromuscular disease) ▪ neurologic (e.g., seizures) ▪ sleep (e.g., obstructive sleep apnea) ▪ mental / emotional health (e.g., depression, schizophrenia) 				
3. Refer a driver				
a. with limitations in extremity movement for an on-road performance evaluation and / or skill performance evaluation				
b. for conditions not directly related to certification, but detected during the examination				
D. Documentation of Ancillary Information	5	2	0	7
1. Record / include results as available with other information about the driver, which may include				
a. audiometrics				
b. cardiovascular studies (e.g., electrocardiogram, stress test, ejection fraction, vascular studies)				
c. blood analyses (e.g., creatinine, electrolytes, toxicology, lipids, blood chemistries)				
d. chest radiograph				
e. respiratory tests (e.g., spirometry, diffusion, lung volumes, oximetry or arterial blood gas analysis with or without exercise)				
f. sleep studies				
g. drug level monitoring (e.g., digoxin, theophylline)				



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	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
h. other tests				
i. treating physician's work release				
2. Integrate a specialist's evaluation with other information about the driver				
3. For a driver who was qualified under a vision exemption, include an annual ophthalmologist's or optometrist's report				
4. For a driver who is qualified under a diabetes exemption, include an endocrinologist's and ophthalmologist's / optometrist's report as required				
5. Include if available				
a. a current skill performance evaluation certificate				
b. documentation of intra-city zone exemption				
6. Review results of SAP evaluations for alcohol and drug use and / or abuse for a driver with				
a. alcoholism who completed counseling and treatment to the point of full recovery				
b. prohibited drug use who shows evidence he or she is now free from such use				
II. DETERMINATION OF DRIVER'S QUALIFICATIONS AND DISPOSITION	7	12	11	30
A. Health Education Counseling	2	1	1	4
1. Explain to a driver consequences of non-compliance with a care plan for conditions that have been advised for periodic monitoring with primary healthcare provider				
2. Advise a driver				
a. regarding side effects and interactions of medications and supplements (e.g., narcotics, anticoagulants, psychotropics) including those acquired over the counter (e.g., antihistamines, cold and cough medications) that could negatively affect his or her driving				
b. that fatigue, lack of sleep, undesirable diet, emotional conditions, stress, and other illnesses can affect safe driving				
c. with contact lenses he or she should carry a pair of glasses while driving				



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FMCSA Medical Examiner
Detailed Content Outline**

Open cells show an examination could include items from indicated cognitive levels. Shaded cells prevent appearance of items on examinations.

	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
d. with a hearing aid he / she should possess a spare power source for the device while driving				
e. who has had a deep vein thrombosis event of risks associated with inactivity while driving and interventions that could prevent another thrombotic event				
f. who has diabetes about glucose monitoring frequencies and the minimum threshold while driving				
g. with a diabetes exemption, he / she should				
1) possess a rapidly absorbable form of glucose while driving				
2) self-monitor blood glucose one hour before driving and at least once every four hours while driving				
3) comply with each condition of his / her exemption				
4) plan to submit glucose monitoring logs for each annual recertification				
3. Inform the driver of the rationale for delaying or potentially disqualifying certification, which may include				
<ul style="list-style-type: none"> ▪ the immediate post-operative period after certain procedures ▪ a vision impairment (e.g., retinopathy, macular degeneration) ▪ a cardiac event (e.g., myocardial infarction, coronary insufficiency) ▪ a chronic pulmonary exacerbation (e.g., emphysema, fibrosis) ▪ uncontrolled hypertension ▪ endocrine dysfunction (e.g., diabetes) ▪ musculoskeletal challenges (e.g., arthritis, neuromuscular disease) ▪ a neurologic event (e.g., seizures, stroke, TIA) ▪ a sleep disorder (e.g., obstructive sleep apnea) ▪ mental health dysfunctions (e.g., depression, bipolar) ▪ postoperative complication 				



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

**National Registry of Certified Medical Examiners
(National Registry)
FMCSA Medical Examiner
Detailed Content Outline**

Open cells show an examination could include items from indicated cognitive levels. Shaded cells prevent appearance of items on examinations.

	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
B. Risk Assessment	2	4	8	14
1. Consider a driver's ability to <ul style="list-style-type: none"> ▪ couple and uncouple trailers from a tractor ▪ load or unload several thousand pounds of freight ▪ install and remove tire chains ▪ manipulate and secure tarpaulins that cover open trailer ▪ move one's own body through space while climbing ladders; bending, stooping, and crouching; entering and exiting the cab ▪ manipulate an oversized steering wheel ▪ shift through several gears using a manual transmission ▪ perform precision prehension and power grasping ▪ use arms, feet, and legs during CMV operation 				
2. Review Skill Performance Evaluation (SPE) cases <ul style="list-style-type: none"> a. identify terms, conditions, and limitations set forth in a driver's SPE Certificate b. For a driver who lost a foot, leg, hand, or arm, ensure that an appropriate SPE Certificate from the FMCSA Division Administrator has been granted 				
3. Consider a driver's cognitive ability to <ul style="list-style-type: none"> ▪ plan a travel route ▪ inspect the operating condition of a tractor and / or trailer ▪ monitor and adjust to a complex driving situation ▪ maneuver through crowded areas ▪ quickly alter the course of vehicle to avoid trouble 				
4. Consider general health and wellness factors such as <ul style="list-style-type: none"> a. adverse health effects associated with rotating work schedules and irregular sleep patterns b. long-term effects of fatigue associated with extended work hours without breaks 				



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

**National Registry of Certified Medical Examiners
(National Registry)
FMCSA Medical Examiner
Detailed Content Outline**

Open cells show an examination could include items from indicated cognitive levels. Shaded cells prevent appearance of items on examinations.

	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
c. risk factors associated with poor dietary choices				
d. stressors likely to be associated with extended time away from a driver's social support system				
e. short- and long-term health effects of stress from <ul style="list-style-type: none"> ▪ tight pickup and delivery schedules ▪ irregular work, rest, and eating patterns / dietary choices ▪ adverse road, weather, and traffic conditions ▪ exposure to temperature extremes, vibration, and noise ▪ transporting passengers or hazardous products 				
5. Integrate FMCSA medical advisory criteria and guidelines regarding a driver's condition into the risk assessment				
6. Consider the rate of progression, degree of control, and likelihood of sudden incapacitation (e.g., cardiovascular, neurologic, respiratory, musculoskeletal) for documented conditions				
7. Support the rationale for using FMCSA guidelines that have not been published in regulations yet				
C. Certification Outcomes and Intervals	3	7	2	12
1. As appropriate, certification standards to disqualify a driver				
a. with a history of epilepsy or other seizure history				
b. with insulin-treated diabetes mellitus (unless accompanied by an exemption)				
c. when vision parameters (e.g., acuity, horizontal field of vision, color) fall below minimum standards unless accompanied by an exemption				
d. when hearing measurements with or without a hearing aid fall below minimum standards				
2. Disqualify a driver who				
a. is currently taking methadone				



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

**National Registry of Certified Medical Examiners
(National Registry)
FMCSA Medical Examiner
Detailed Content Outline**

Open cells show an examination could include items from indicated cognitive levels. Shaded cells prevent appearance of items on examinations.

	Items Cognitive Level Recall	Items Cognitive Level Application	Items Cognitive Level Analysis	Items Totals
b. has a current clinical diagnosis of alcoholism				
c. uses a controlled substance including a narcotic, an amphetamine, or another habit-forming drug without a prescription from the treating physician, or as appropriate				
3. Disqualify a driver when evidence shows a condition or treatment that will likely interfere with the safe operation of a CMV, which may include appropriate supporting documents such as test reports, specialist reports etc.				
4. Document the reason(s) for the disqualification and / or referral				
5. Advise a driver of the reasons for a disqualification decision and what a driver could do to become qualified				
6. Certify a driver for an appropriate interval				
7. Indicate certification status, which may require				
<ul style="list-style-type: none"> ▪ waiver / exemption, which the Medical Examiner identifies ▪ wearing corrective lenses ▪ wearing a hearing aid ▪ a Skill Performance Evaluation Certificate 				
8. For a driver that is certified with a limited interval, advise them to return for recertification with the appropriate documentation for his or her condition				
9. Complete a medical examination report and medical certificate/card				
<ul style="list-style-type: none"> ▪ ensure use of currently required examination form ▪ ensure the form includes the examiner's name, examination date, office address, and telephone number ▪ ensure the driver signs the medical certificate/card 				
Totals	30	45	25	100

SUMMARY OF PUBLIC ORAL COMMENT – Public Hearing June 28, 2016

Dr. David Dolberg, President of the Virginia Chiropractic Association

- Thanked the Board for conducting the review and noted frustration with the new federal requirement for specific state authorization. Stated had been authorized to perform CDL exams 25 yrs.
- Indicated change was not due to complaints or issues from the DMV or Board of Medicine
- Described chiropractic education and training for physicals far exceeds federal CDL requirements

Bruce Keeney, representing the Virginia Chiropractic Association

- Noted a Board of Medicine legal opinion in the mid-1980s confirmed chiropractors as “practitioners of the healing arts” and were authorized to perform physicals due to scope involving prevention, diagnosis, treatment, cure and alleviation of human physical ailments in addition to diseases and pain. Stated later legal opinions relied upon stricter interpretations of other statutory provisions and concluded chiropractors could not provide such physicals.
- Indicated new federal rules require states to specify authorization. Chiropractors have had to cease providing CDL exams in some states, and Virginia’s chiropractors are seeking re-authorization.
- Reiterated Del. Orrock’s request for the study.
- Reported no known patient harm or complaints.
- Referred to Council on Chiropractic Education (CCE) letter stating CCE is the accrediting organization for chiropractic doctoral education programs; affirmed all accredited programs provide education and clinical training to perform physical examinations to a higher degree than required for CDL exams.
- Said the Board of Medicine sets the requirements for chiropractic licensure; all Virginia licensed chiropractors must earn a doctorate from a CCE accredited program.
- Referred New York Chiropractic College’s Provost’s letter stating all CCE accredited chiropractic programs provide extensive classroom and clinical training on physicals.
- Referred to document from the Director of Testing of the National Board of Chiropractic Examiners (NBCE) and noted that 78% of Part III includes a recent assessment of competency to perform physicals, and over half of Part IV includes an extensive critical assessment of the competency to perform physical examinations on live patients.
- Referred to communication between Virginia’s Department of Motor Vehicles and State Senator Steven Newman confirming Virginia chiropractors had been providing CDL physicals prior to 2014.
- Referred to document of Connecticut’s determination that each CDL physical element was included in chiropractic education and training.
- Noted FCMSA states that CDL physical exams are intended as screenings to detect warning signs and symptoms and not to be considered as providing definitive diagnoses. Cited visual acuity assessment that is insufficient to write a valid eyeglass prescription; limited blood pressure, urine and blood testing and stethoscope use to detect abnormal sounds, with the expectation of referral as needed.
- Noted written comment attests Virginia chiropractic doctors are trained and competent to perform physicals and are practitioners of the healing arts who provide primary care across all rural, suburban, and rural areas of the state.
- Indicated he was not aware of any substantiated evidence to the contrary.

Dr. Thomas Wetzen, Immediate Past President of the Virginia Chiropractic Association and practitioner in Northern Virginia

- Noted after finishing undergraduate education, chiropractors complete a four-year doctorate

program from accredited schools. It prepares them as chiropractic physicians and as independent healthcare providers. Stated their services require no supervision, direction or referral from other professions.

- Said, as part of the healthcare system, chiropractors refer patients to cardiologists, pulmonologists, orthopaedists, family physicians, and other professions as warranted with abnormal conditions or symptoms.
- Reported chiropractic training emphasizes the spine and nerve energy pathways and effects on other body systems. They must be well trained in providing physicals. In the 1st year, students receive classroom and practical instruction on how to do physical examinations for procedures. Clinical training than is much more comprehensive than required for CDL physicals continues throughout the remaining 3 years. The training allows chiropractors to know when to treat or refer.

Dr. Craig Little, President of the Council on Chiropractic Education (CCE)

- Described his own background in higher education and as a chiropractic practitioner for 30 years. Noted he has a master's degree in education and is currently completing his doctorate in education.
- Stated CCE is the only agency recognized by the U.S. Dept. of Education to accredit chiropractic programs. It is comprised of educators and other clinicians as well as chiropractors. The chair is a nurse with a doctoral degree in education.
- Further stated CCE sets the academic and clinical requirements for every chiropractic program and ensures that every graduate has met them. It sets core educational standards: general health sciences, toxicology, pharmaceuticals, anatomy and all systems of the human body.
- Indicated the didactic component of physical examination begins in the 1st year. In the 2nd year, students examine each other, and the 3rd and 4th years' students perform exams on outpatients.
- Stressed the importance of training for physical exams and that many other clinical conditions may be masked by the presenting condition, including those affecting vision, cardiac, pulmonary, and other systems.
- Stated CCE standards require verification that competency based educational standards in diagnosis and case management are met to ensure graduates' competencies to practice as a primary care chiropractic physician.
- Indicated CCE assures standards through curriculum and clinical evidence and outcome measures of National Board of Chiropractic Examiners (NBCE) testing. The NBCE addresses neurology, pulmonology, cardiology, diagnosis, dermatology, and ophthalmology, etc. Relevant curriculum elements are commensurate with CDL exam requirements. The education and training for DCs are at physician status level and are recognized as such in federal statutes and for Medicaid and Medicare services.
- Reported he served in research and evaluation of chiropractic work and was appointed for 18 years to an American Medical Association healthcare advisory committee on chiropractors. He stated that chiropractors use the same codes as all other physician disciplines because of the work they do, including examining all body areas and organs.
- As president of the chiropractic education accrediting body, personally affirmed the requisite education and training to perform CDLs. Reiterated licensure by the Board of Medicine requires graduation from a CCE accredited program and passage of the NBCE examination
- Noted that FMCSA's 2007 national role delineation study affirms chiropractor competency to perform CDLs. Multiple professions participated in the study with over 400 chiropractors, 185 osteopaths, and 587 medical physicians surveyed.

Dr. Brad Robinson, Past President of the Virginia Chiropractic Association, practitioner in Norfolk, VA

- Noted he graduated in 1986 and indicated chiropractic physical examination training is not new. History, orthopedic, neurological, heart and other systems have been included. In addition to

examination of the spine and nerve systems, chiropractors have been taught to identify abnormal breath sounds, heartbeat, bowel sounds and checking of abdominal masses, on live patients.

- Stated checking for abnormal conditions is necessary prior to initiating any treatment or making appropriate referral. He has made referrals for heart and lung abnormalities. Chiropractic physical examinations are extensive because of the extensive spine and the nervous system involvement with other systems.

- Thanked Delegate Orrock for the request and the Board for the review.

Dr. Len Bundick, chiropractic practitioner in Olney, VA, previously performed CDL exams

- Held National Registry listing and conducted CDL's legally in the Virginia for years until Virginia chiropractors were prohibited from doing so.

- Asked BHP to recognize that chiropractors are qualified. Noted the education and training in physical examinations and passage of the NBCE exceeds CDL physical requirement and that he had been conducting CDLs legally in the Commonwealth for years.

- Stated the CDL exam is meant to *screen* for symptoms that would pose a risk to public safety, not a diagnostic. Referrals are made to cardiologists, neurologists, or other specialist to determine if there's a problem that requires treatment. He stated "they treat it, we don't."

- Explained that the certified medical examiner (CME) does not approve a driver who has been referred to a specialist without first receiving a letter from the specialist confirming examination, diagnosis, treatment, and whether the individual is safe to operate a motor vehicle. Noted he has letters from cardiologists to whom he has made referrals for follow-up examination who thanked him for discovering problems.

- Reiterated their goal is to provide a thorough screening physical exam as set forth by federal requirements and chiropractors are qualified.

Dr. Joe Foley, Legislative Chair for the Virginia Chiropractic Association and practitioner in Salem, VA

- Indicated that drivers from any state can go on the National Registry to find an examiner in another state. States surrounding Virginia authorize chiropractors to perform CDL exams and that Virginia drivers get their examinations in other states. Described the case of a chiropractor licensed in Maryland and Virginia who is on the National Registry. He must tell drivers he can only perform CDL exams in Maryland. It is the same doctor, same qualifications, but if the exam is performed in Virginia, it is not valid. FMCSA National Registry is a good idea, but because existing Virginia Code does not specifically authorize chiropractors to perform the exams, the Virginia and Maryland licensed chiropractor performs exams in Maryland for drivers licensed by Virginia's DMV.

- Referenced that 47 other states permit chiropractors to perform CDLs, and noted that chiropractors have been performing the exams for decades. Stated that it is not an expansion of chiropractic, but a continuation of what they do and what 47 other states permit.

Dr. Mike Megehee, practitioner in Oregon and FMCSA National Registry development participant

- Stated he practiced 26 years and graduated with honors from the University of Western States.

- Said he participated in FMCSA's brainstorming sessions in 2005 to help develop the National Registry and integrated project team assisting in the 2007 national role delineation study. They study identified 125+ tasks and relevant knowledge and skills content domains. As a National Registry Champion, he continues to assist with admissions and goals development issues." He is also president of Team CME, a Federal Motor Carrier accredited training organization.

- Referenced the physical examination requirements stated in the FMCSA Medical Examiner Handbook, citing that the CME's responsibility is to determine medical fitness for duty and to issue ME certificates. Diagnosis and treatment do not fall into the CME role. Referral to the driver's personal

healthcare provider is required for further testing and evaluation of medical conditions of which the CME is unsure.

- Noted that it is typical for chiropractors to refer out when abnormal conditions are found. Also noted that chiropractors examine all systems because hear, eye, ear, abdominal symptoms have medical conditions that may refer a symptom to the spine. The general physical examinations he performed while in chiropractic school exceeded the current CDL physical requirements.
- Discussed the new Form MCSA 58-75 Medical Examination Report that now replaces Form 649-F(6045).
- Spoke about his personal experience is detecting undiagnosed conditions and noted that although chiropractors do not perform CDL exams in everyday practice, they are trained to do so when needed and are capable of following FMSCA guidelines.

Bo Keeney, Vice-President of the Keeney Group, representing the Virginia Chiropractic Association

- Reviewed written comment documents. Referenced information from the New York Chiropractic College, Federation of Chiropractic Licensing Boards and National Board of Chiropractic Examiners which further substantiates chiropractic educational and training standards are higher than CDL requirements.

Scott Johnson, General Counsel, Medical Society of Virginia

- Thanked the Board for conducting the review and noted for the two years since the issue first arose he and members have been asking the question to educate them on chiropractic training. Indicated that back care is what is typically associated with chiropractors not necessarily bloodwork or vision problems. Noted study information gathered, to date, and the testimony today has been very helpful.
- Indicated that the Medical Society does not consider this a turf war or battle.
- Stated the need for decisions to be based on science and facts to protect the public.
- Indicated they look forward to engaging on this and noted that consistency in education is key, whether the practitioner is new or older.
- Noted testimony that CDL exams are intended for screening consistent with passing the examination that FMCSA has established, and not diagnosis.
- Noted further that legislators want to know whether chiropractors are qualified to do CDLs because they did not get this answered and so sent the matter to BHP.
- Stated additional information from the Medical Society will be provided upon review of the information, to date.

SUMMARY OF WRITTEN PUBLIC ORAL COMMENT – RECEIVED BY JULY 15, 2016

Craig S. Little, D.C., M.Ed. ,President of the Council on Chiropractic Education (CCE)

Letter to BHP, May 31, 2016 - Attests that (1) doctors of chiropractic have the requisite education and training to perform CDL physicals as set forth in federal regulation and (2) education and training for each element of the CDL physical according to the physical form required for use in the federal regulation

Bruce B. Keeney, Sr. on behalf of the Virginia Chiropractic Association

Written Comment Packet to BHP, May 20, 2016 –

1. Cover memo
2. Explanatory note and June 18, 2014 letter from New York Chiropractic College Provost Dr. Michael Mestan to Dr. Thomas Wetzen of the Virginia Chiropractic Association affirms the program's core curriculum coursework preparation of students to perform FMCSA physical examinations and diagnostic tests. Lists specific courses as fulfilling FMCSA. Acknowledges that the National Registry CME training program and examination are required, and further notes Parts I, II, III, and IV of the NBCE address the FMCSA Medical Examination Report elements.
3. Explanatory note and §54.1-2900 of the Code of Virginia text indicating doctors of chiropractic are among practitioners of the healing arts and deal with prevention, diagnosis, treatment. . . of human physical. . . ailments, conditions, diseases, pain or infirmities
4. Explanatory note and June 3, 2014 letter from Dr. Craig Little, then CCE Accreditation Chair. Affirms CCE accreditation of doctoral degree chiropractic programs requires schools to prepare students as primary care practitioners and the curriculum and clinical training enables determination of clearance for CDL. Also notes Board of Medicine requires graduation with a DC from CCE accredited school.
5. Explanatory note and e-mail communication between the Virginia DMV and Office of State Senator Steve Newman, January 29 and 30, 2015 confirming that Virginia chiropractors were authorized and performed CDL physicals until 2014 when federal regulations changed. Email further indicates that chiropractors are seeking reinstatement of their ability to provide the service. Correspondence acknowledges that the Board of Medicine sent notice to FMCSA in 2014 that chiropractors were not licensed to perform the exams for commercial drivers. As such, FMCSA did not permit them to join the National Registry. Offers that statutory amendment to expressly authorize FMCSA physicals would all their National Registry participation.
6. Explanatory note and letter from the National Board of Chiropractic Examiner's (NBCE's) Mark G. Christensen, Ph.D. to David B. Dolberg, DC of Family Chiropractic of Springfield, April 22, 2013, explains that 78% of Part III assesses academic and clinical competence to perform physical examinations.
7. Explanatory note and copy of the Medical Examination Report (NOTE: this is a prior form) Indicates that federal instructional course and federal examination are required and physical exam items are for screening only.
8. Explanatory note and copy of April 2015 Declaratory Ruling from Connecticut confirming the acceptability of CCE accredited program education and training and that it successfully addresses each element of the CDL physical examination.

Appendix 5 – Relevant States’ Scopes of Practice Statutes

Prohibiting States

VIRGINIA

§54.1-2900 of the *Code of Virginia* provides the:

“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.

Available at: http://www.dhp.virginia.gov/medicine/medicine_laws_regs.htm

MICHIGAN

Michigan’s chiropractic scope of practice statute is a part of their Public Health Code Act 368 of 1978 as follows:

333.16401

(2) *The practice of chiropractic does not include any of the following:*

- (a) *The performance of any procedure that cuts or punctures the skin.*
 - (b) *The dispensing or prescribing of drugs or medicine.*
 - (c) *Except for diagnostic purposes only, the use of x-ray.*
 - (d) *The performance of an invasive procedure involving a body orifice or cavity unless allowed by rules promulgated under section 16423 and limited to examinations involving the ears, nose, and throat.*
 - (e) *The treatment of fractures or dislocations.*
 - (f) *The performance or ordering of non-x-ray diagnostic imaging tests that were not allowed under section 16423 as of December 1, 2009.*
- (3) *In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this act and part 161 contains definitions applicable to this part.*

333.16423 *Performance and ordering of tests and approval of analytical instruments and adjustment apparatus; rules; criteria; standards.*

(1) *The department, in consultation with the board, shall promulgate rules to establish criteria for the performance and ordering of tests and the approval of analytical instruments and adjustment apparatus to be used for the purpose of examining and treating patients for subluxations and misalignments that produce nerve interference or joint dysfunction. The criteria established shall be substantially equivalent to nationally recognized standards in the profession for the performance and ordering of tests and the use and operation of the instruments and apparatus. The board may approve types and makes of analytical instruments and adjustment apparatus that meet these criteria.*

(2) An individual shall not perform or order tests or use analytical instruments or adjustment apparatus that do not meet nationally recognized standards or that are not approved by the board.

Available at:

[http://www.legislature.mi.gov/\(S\(mfi1yc5mcvzxtgdxrs1m5ul\)\)/mileg.aspx?page=GetObject&objectname=mcl-333-16401](http://www.legislature.mi.gov/(S(mfi1yc5mcvzxtgdxrs1m5ul))/mileg.aspx?page=GetObject&objectname=mcl-333-16401))

WASHINGTON STATE

RCW 18.25.005

"Chiropractic" defined.

(1) *Chiropractic is the practice of health care that deals with the diagnosis or analysis and care or treatment of the vertebral subluxation complex and its effects, articular dysfunction, and musculoskeletal disorders, all for the restoration and maintenance of health and recognizing the recuperative powers of the body.*

(2) *Chiropractic treatment or care includes the use of procedures involving spinal adjustments and extremity manipulation. Chiropractic treatment also includes the use of heat, cold, water, exercise, massage, trigger point therapy, dietary advice and recommendation of nutritional supplementation, the normal regimen and rehabilitation of the patient, first aid, and counseling on hygiene, sanitation, and preventive measures. Chiropractic care also includes such physiological therapeutic procedures as traction and light, but does not include procedures involving the application of sound, diathermy, or electricity.*

(3) *As part of a chiropractic differential diagnosis, a chiropractor shall perform a physical examination, which may include diagnostic x-rays, to determine the appropriateness of chiropractic care or the need for referral to other health care providers. The chiropractic quality assurance commission shall provide by rule for the type and use of diagnostic and analytical devices and procedures consistent with this chapter.*

(4) *Chiropractic care shall not include the prescription or dispensing of any medicine or drug, the practice of obstetrics or surgery, the use of x-rays or any other form of radiation for therapeutic purposes, colonic irrigation, or any form of venipuncture.*

(5) *Nothing in this chapter prohibits or restricts any other practitioner of a "health profession" defined in RCW [18.120.020](#)(4) from performing any functions or procedures the practitioner is licensed or permitted to perform, and the term "chiropractic" as defined in this chapter shall not prohibit a practitioner licensed under chapter [18.71](#) RCW from performing medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine.*

Available at: <http://app.leg.wa.gov/rcw/default.aspx?Cite=18.25>.

NEW YORK STATE

§6551. *Definition of practice of chiropractic.*

1. *The practice of the profession of chiropractic is defined as detecting and correcting by manual or mechanical means structural imbalance, distortion, or subluxations in the human body for the purpose of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column.*

2. a. *A license to practice as a chiropractor shall not permit the holder thereof to use radiotherapy, fluoroscopy, or any form of ionizing radiation except X-ray which shall be used for the detection of structural imbalance, distortion, or subluxations in the human body.*

b. The requirements and limitations with respect to the use of X-ray by chiropractors shall be enforced by the state commissioner of health and he is authorized to promulgate rules and regulations after conferring with the board to carry out the purposes of this subdivision.

c. Chiropractors shall retain for a period of three years all X-ray films taken in the course of their practice, together with the records pertaining thereto, and shall make such films and records available to the state commissioner of health or his representative on demand.

3.A license to practice chiropractic shall not permit the holder thereof to treat for any infectious diseases such as pneumonia, any communicable diseases listed in the sanitary code of the state of New York, any of the cardio-vascular-renal or cardio-pulmonary diseases, any surgical condition of the abdomen such as acute appendicitis, or diabetes, or any benign or malignant neoplasms; to operate; to reduce fractures or dislocations; to prescribe, administer, dispense or use in his practice drugs or medicines; or to use diagnostic or therapeutic methods involving chemical or biological means except diagnostic services performed by clinical laboratories which services shall be approved by the board as appropriate to the practice of chiropractic; or to utilize electrical devices except those devices approved by the board as being appropriate to the practice of chiropractic. Nothing herein shall be construed to prohibit a licensed chiropractor who has successfully completed a registered doctoral program in chiropractic, which contains courses of study in nutrition satisfactory to the department, from using nutritional counseling, including the dispensing of food concentrates, food extracts, vitamins, minerals, and other nutritional supplements approved by the board as being appropriate to, and as a part of, his or her practice of chiropractic. Nothing herein shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed chiropractor from engaging in nutritional counseling

§6556. Special provisions.

- 1. Any chiropractor who holds a license stating that the holder is not authorized to use X-ray in his practice shall on each registration, continue to obtain a license so marked. Any chiropractor holding such a license may obtain a license permitting the use of X-ray provided he first passes an examination in the use and effect of X-ray satisfactory to the board and the department. . .*

(Ref. <http://www.op.nysed.gov/prof/chiro/article132.htm>)

Approving States Bordering Virginia

NORTH CAROLINA

§ 90-143. Definitions of chiropractic; examinations; educational requirements.

(a) "Chiropractic" is herein defined to be the science of adjusting the cause of disease by realigning the spine, releasing pressure on nerves radiating from the spine to all parts of the body, and allowing the nerves to carry their full quota of health current (nerve energy) from the brain to all parts of the body.

§ 90-151. Extent and limitation of license.

Any person obtaining a license from the Board of Chiropractic Examiners shall have the right to practice the science known as chiropractic, in accordance with the method, thought, and practice of chiropractors, as taught in recognized chiropractic schools and colleges, but shall not prescribe for or administer to any person any medicine or drugs, nor practice osteopathy or surgery.

§ 90-153. Licensed chiropractors may practice in public hospitals.

A licensed chiropractor in this State may have access to and practice chiropractic in any hospital or sanitarium in this State that receives aid or support from the public, and shall have access to diagnostic X-ray records and laboratory records relating to the chiropractor's patient.

§ 90-154.3. Acceptable care in the practice of chiropractic.

(a) It shall be unlawful for a doctor of chiropractic to examine, treat, or render any professional service to a patient that does not conform to the standards of acceptable care.

(b) For purposes of disciplinary action, the Board of Chiropractic Examiners may adopt rules that establish and define standards of acceptable care with respect to:

- (1) Examination and diagnosis;*
- (2) The use of chiropractic adjustive procedures;*
- (3) Physiological therapeutic agents;*
- (4) Diagnostic radiology;*
- (5) The maintenance of patient records; and*
- (6) Sanitation, safety, and the adequacy of clinical equipment.*

(c) If the Board has not defined a standard of acceptable care by rule, then the standard of acceptable care shall be the usual and customary method as taught in the majority of recognized chiropractic colleges.

(d) Nothing in this section shall alter the lawful scope of practice of chiropractic as defined in G.S. 90-143 or the limitation of license as defined in G.S. 90-151.

Accessible at:

http://www.ncleg.net/Enactedlegislation/Statutes/HTML/ByArticle/Chapter_90/Article_8.html

KENTUCKY

312.015 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

...

(2) Subject to the limitations of subsection (4) of this section "chiropractic" means the science of diagnosing and adjusting or manipulating the subluxations of the articulations of the human spine and its adjacent tissues;

(3) Subject to the limitations of subsection (4) of this section "chiropractor" means one qualified by experience and training and licensed by the board to diagnose his patients and to treat those of his patients diagnosed as having diseases or disorders relating to subluxations of the articulations of the human spine and its adjacent tissues by indicated adjustment or manipulation of those subluxations and by applying methods of treatment designed to augment those adjustments or manipulation. The terms "chiropractic," "doctor of chiropractic," and "chiropractor" shall be synonymous, and shall be construed to mean a practitioner of chiropractic as defined in this section.

(4) "Peer review" means an evaluation, based upon generally accepted standards, by a peer review committee established in KRS 312.200 or by other persons performing peer review pursuant to KRS 312.200(3), of the appropriateness, quality, utilization, and cost of chiropractic health care and health service provided to a patient.

(5) The practice of chiropractic shall not include the practice of medicine or osteopathy as defined in KRS 311.550, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice as a nurse as defined in KRS 314.011, or the practice of pharmacy by persons licensed and registered under KRS 315.050

312.017 Types of treatment prohibited -- Scope and methods of chiropractic treatment -- Referral of patients.

(1) No chiropractor shall:

(a) Treat or attempt to treat contagious or communicable diseases;

(b) Treat or attempt to treat cancer;

(c) Treat by use of x-ray or radiological methods;

(d) Perform surgery;

(e) Treat or attempt to treat by use of acupuncture; or

(f) Administer prescription drugs or controlled substances.

(2) Subject to the limitations in this chapter, a chiropractor shall examine, diagnose and treat the human body within the scope of chiropractic as defined in this section and KRS 312.015 and by methods taught in accredited chiropractic colleges as stated in KRS 312.085. A chiropractor may refer a patient to a physician, licensed medical laboratory or licensed health facility for testing or examination to aid in differential diagnosis or treatment. However, nothing contained herein shall require any licensed health care provider to accept such a referral.

(3) No chiropractor shall otherwise treat a patient for any disorder or by any method except as provided in this chapter. Chiropractic patients whose diagnosis is not within the chiropractic scope of practice, as defined in this section and KRS 312.015, shall be referred by the chiropractor to a medical doctor or other licensed health practitioner for treatment of that condition.

MARYLAND

HEALTH OCCUPATIONS TITLE 3. CHIROPRACTORS

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS, Md. HEALTH OCCUPATIONS Code Ann. § 3-101 (2014)

§ 3-101. Definitions

(f) Practice chiropractic. –

(1) "Practice chiropractic" means to use a drugless system of health care based on the principle that interference with the transmission of nerve impulses may cause disease.

(2) "Practice chiropractic" includes the diagnosing and locating of misaligned or displaced vertebrae and, through the manual manipulation and adjustment of the spine and other skeletal structures, treating disorders of the human body.

(3) Except as otherwise provided in this title, "practice chiropractic" does not include the use of drugs or surgery, or the practice of osteopathy, obstetrics, or any other branch of medicine.

(4) The definition of "practice chiropractic" does not prohibit a chiropractor from selecting diet and hygiene measures for an individual.

SUBTITLE 3. LICENSING, Md. HEALTH OCCUPATIONS Code Ann. § 3-307 (2014)

§ 3-307. Scope of license

(a) Practice chiropractic. -- Except as otherwise provided in this section, a license authorizes the licensee to practice chiropractic while the license is effective.

(b) Practice chiropractic and physical therapy. -- A license that includes the right to practice physical therapy authorizes the licensee to practice chiropractic and physical therapy while the license is effective.

(c) Execution of certificate. -- A license does not authorize a licensee to execute or file a birth or death certificate.

Accessible at : <http://dhmh.maryland.gov/chiropractic/Documents/3-101.pdf>.

WEST VIRGINIA

(3) "Chiropractic services" means those health care services provided within the scope of chiropractic practice as defined by this article and by chiropractors licensed by the board;

(4) "Chiropractic" is the science and art which utilizes the inherent recuperative powers of the body and the relationship between the neuromusculoskeletal structures and functions of the body, particularly of the spinal column and the nervous system, in the restoration and maintenance of health. The use of the designation doctor of chiropractic, chiropractor, chiropractic physician or D.C., is the practice of chiropractic.

The practice of chiropractic also includes the examination and assessment of members of the public that are not patients of the examining chiropractor. Further, the practice of chiropractic includes the review of information relating to the duration and necessity of chiropractic care that affects the course of care, the treatment plan or payment and reimbursement concerning chiropractic patients residing within the state of West Virginia. The practices and procedures which may be employed by doctors of chiropractic are based on the academic and clinical training received in and through chiropractic colleges accredited by the council of chiropractic education or its successors and as determined by the board. These include the use of diagnostic, analytical and therapeutic procedures specifically including the adjustment and manipulation of the articulations and adjacent tissues of the human body, particularly of the spinal column, including the treatment of intersegmental disorders. Patient care and management is conducted with due regard for environmental and nutritional factors, as well as first aid, hygiene, sanitation, rehabilitation and physiological therapeutic procedures designed to assist in the restoration and maintenance of neurological integrity and homeostatic balance;

(5) "Spinal manipulation" and "spinal adjustment" are interchangeable terms that identify a method of skillful and beneficial treatment where a person uses direct thrust or leverage to move a joint of the patient's spine beyond its normal range of motion, but without exceeding the limits of anatomical integrity.

§30-16-18. Scope of practice; chiropractic assistants; expert testimony.

(a) Any chiropractor who has complied with the provisions of this article may use any instrument or procedure, for the purpose of diagnosis and analysis of disease or abnormalities: Provided, that the person is trained to perform the procedures and use the instruments through a chiropractic college approved by the council on chiropractic education or its successor. Any chiropractor properly qualified under this article may engage in the use of physiotherapeutic devices, physiotherapeutic modalities, physical therapy and physical therapy techniques. Licensed chiropractors may also employ properly trained chiropractic assistants to perform duties under supervision that are generally conducted by chiropractic assistants which are not otherwise prohibited by the board. The board shall propose and promulgate rules in accordance with the provisions governing legislative rules, contained in article three, chapter twenty-nine-a of this code governing chiropractic assistants, including, but not limited to, minimum

qualifications, scope of practice, and supervision requirements. A licensed chiropractor may not engage in conduct outside this scope and beyond his or her training and knowledge.

(b) A doctor of chiropractic duly licensed under this article is presumed to be competent to testify before the circuit courts of this state or in any other state administrative proceeding as an expert witness.

§30-16-20. Use of physiotherapeutic devices; electrodiagnostic devices; specialty practice.

(a) No chiropractor may use any physiotherapeutic devices or electrodiagnostic devices in practice until he or she has certified to the board that he or she has completed at least the minimum classroom hours required for certification in the use of these procedures in classes sponsored by or conducted by a chiropractic college approved by the council of chiropractic education or its successor.

(b) Electrodiagnostic devices include, but are not limited to, the following: Videofluoroscopy and diagnostic ultrasound, including needle and surface electromyography, nerve conduction velocity studies, somatosensory testing and neuromuscular junction testing. The board may designate other devices as electrodiagnostic devices covered by this section by rule.

(c) As contained in this section, the term "specialty" includes, but is not limited to, orthopedics, neurology, chiropractic sports physician, radiology, pediatrics, nutrition, rehabilitation, acupuncture, chiropractic internist, behavioral health, diagnostic imaging and physiotherapeutics. No chiropractor is permitted to practice in a specialty in the chiropractic field or hold himself or herself out as being a specialist in the chiropractic field until the licensee has successfully completed a certified program in that specialty at a chiropractic college approved by the council on chiropractic education or its successor and approved by the board. The program shall consist of a minimum number of hours to be determined by the board. Successful completion of the final certification exam is required

Accessible at: http://www.boc.wv.gov/Documents/CHAPTER_30_16.pdf

DISTRICT OF COLUMBIA

4811 SCOPE OF PRACTICE

4811.1 A chiropractor who is licensed to practice in the District of Columbia under the provisions of this chapter may provide the following chiropractic services:

(a) Locating, diagnosing, and analyzing subluxated vertebrae as follows:

(1) By x-ray of the spinal column;

(2) By physical examination; and

(3) By employing other non-invasive procedures such as MRI and CAT scan;

(b) Correcting vertebral subluxation displacement by applying specific localized force to the spine;

(c) Advising patients about diet, exercise and stress;

(d) Referring patients for specialized diagnostic testing, which may be necessary for chiropractic treatment or patient safety;

(e) Referring patients to other healthcare practitioners as deemed necessary by the chiropractor; and
(f) Diagnosing and treating bodily articulations by means of manipulation or adjustments.

4811.2 A chiropractor who is certified by the Board to perform ancillary procedures pursuant to § 4803.3 may perform any physiotherapy for which the chiropractor has received specialized training at a program or institution listed in § 4807.1 as long as the physiotherapy is preparatory and complementary to chiropractic care.

Accessible at: <http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=17-4811>

TENNESSEE

Title 63 Professions Of The Healing Arts , Chapter 4 Chiropractors
Tenn. Code Ann. § 63-4-101 (2016)

63-4-101. "Chiropractic" and "Chiropractic physician" defined -- Education and clinical training -- Scope of practice.

(a) The term "chiropractic" where used in this chapter is defined as the science and art of locating and removing interference with nerve transmission and nerve function. A chiropractic physician diagnoses and treats neuromuscular and musculoskeletal conditions through physical agent modalities and manipulative therapies. The adjustment, manipulation or treatment shall be directed toward restoring and maintaining the normal neuromuscular and musculoskeletal function and health of the patient. A chiropractic physician will also make appropriate health referrals for conditions that may not be treated by physical agent modalities and manipulative therapies. Patient care shall be conducted with due regard for nutrition, environment, hygiene, sanitation and rehabilitation designed to assist in the restoration and maintenance of the patient's health. Nothing in this chapter shall be construed to authorize the chiropractic physician to practice any branch of medicine osteopathy, as defined in chapters 6 and 9 of this title, or surgery, including venipuncture or the prescribing of medication, acupuncture being the exception.

(c) (1) No person licensed under this title may perform a spinal manipulation or spinal adjustment without first having the legal authority to differentially diagnose and having received a minimum of four hundred (400) hours of classroom instruction in spinal manipulation or spinal adjustment and a minimum of eight hundred (800) hours of supervised clinical training at a facility where spinal manipulation or spinal adjustment is a primary method of treatment. "Spinal manipulation" and "spinal adjustment" are interchangeable terms that identify a method of skillful and beneficial treatment where a person uses direct thrust to move a joint of the patient's spine beyond its normal range of motion, but without exceeding the limits of anatomical integrity. A violation of this section is an unlawful practice of chiropractic and is grounds for the offending health care provider's licensing board to suspend, revoke or refuse to renew such provider's license or take other disciplinary action allowed by law.

Accessible at: <http://www.lexisnexis.com/hottopics/tncode/>

Appendix 6 – Virginia’s FMCSA Certified Medical Examiner National Registry Listing

<https://nationalregistry.fmcsa.dot.gov/NRPublicUI/SearchResults.seam?zip=&lastName=&employerName=&nrlID=&profession=NotChosen&pageSize=25&state=VA&radius=500&bizName=¤tPage=0&firstName=&city=&cid=5476207>

Data Download June 21, 2016

	1	James Ross	MD	Colonial Heights	Virginia Industrial Medicine
2 & 3		Matthew Tatom	DO	Amherst	Physicians Treatment Center
		Matthew Tatom	DO	Lynchburg	Physicians Treatment Center
	4	Darlee Olive	NP	Richmond	Working Well, LLC
	5	Gerard de Guzman	MD	Salem	Valley Occupational Medicine
	6	Hertzal Harley	MD	Roanoke	Carilion Roanoke Community Hospital
	7	Darrell Powledge	MD	Roanoke	Valley Occupational Medicine
	8	Alan Watt	MD		REMOVED FROM REGISTRY 2/8/2016
	9	Gary Caplan	MD	Newport News	Bon Secours Occumed Center
	10	Fortunata Condecido	NP	South Hill	South Hill Family Medicine
	11	Michael Brackenrich	DO	Rich Creek	Brackenrich Family Practice, LLC
	12	Helen Gardner	NP	Chester	Honeywell
13 & 14		Kenneth Culbert	DO	Blue Mount	Valley Health
		Kenneth Culbert	DO	Winchester	Valley Health
	15	Kathleen Goldstein	DO	Blacksburg	Lewis Gale Physicians - Main Street/Occ Med
	16	Maria Jonales	MD	Roanoke	Valley Occupational Medicine
	17	Larry Smith	MD	Appomattox	Appomattox Medical Center
	18	Krishna Padiyar	MD		NO LONGER ACCEPTING EXAMINATION REQUESTS
	19	Hal Clark	MD	Lynchburg	Family Care Center
	20	Laura Lawson	DO	Front Royal	Valley Health Urgent Care, Front Royal
	21	Phong Nguyen	MD	Annandale	Phong Nguyen Medical Clinic
	22	Janet DeCanio	PA	Winchester	Valley Urgent Care
	23	Alan Philippi	DO	Portsmouth	U.S. Navy, Navy Marine Corps Public Health Center
	24	Jackie O'Donnell	NP	Front Royal	Valley Healthy Urgent Care
	25	David Hiland	DO	Virginia Beach	U.S. Navy, Branch Health Clinic

21 Total Current Certificate Holders Accepting Physical Examination Requests

MD = 9

DO = 7

NP = 4

PA = 1

COPY

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VIRGINIA BOARD OF HEALTH PROFESSIONS
VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

REGULATORY RESEARCH COMMITTEE

PUBLIC HEARING

CHIROPRACTORS AND CGL PHYSICALS

JUNE 28, 2016
BOARD ROOM 2
10:00 A.M.

Public Hearing

Tuesday, June 28, 2016

CRANE-SNEAD & ASSOCIATES, INC.
4914 Fitzhugh Avenue, Suite 203
Henrico, Virginia 23230-3534
804-355-4335

Crane-Snead & Associates, Inc.

2

1 APPEARANCES
2 REGULATORY RESEARCH COMMITTEE

3 Jacquelyn Tyier, R.N., Civilian

4 Martha Perry, M.S., Civilian

5 James Walls

6 Barbara Allison-Ryan

7 J. Paul Welch II

8 Yelty Shobo, Ph.D.

9 Lisa R. Hahn

10 David E. Brown

11 Elaine Yeatts

12 Laura Jackson

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Crane-Snead & Associates, Inc.

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1 MR. WELLS: Good morning, we're here
2 today for the public hearing to receive public comment for the
3 Board to review for the evaluation of Chiropractors competency
4 to perform physical examinations for Commercial Driver's
5 Licenses. The Code of Virginia authorizes the Department of
6 Health Professions to advise the Governor and the General
7 Assembly on matters relating to healthcare occupations and
8 professions. Accordingly, the Board is conducting this review
9 to provide recommendations on the competency of Virginia
10 licensed doctors and chiropractors to perform physical
11 examinations for Commercial Driver's Licenses.

12 At this time, Dr. Shobo will address the
13 subject.

14

15 NOTE: Dr. Shobo instructs the participants where to go in the
16 event that the building had to be evacuated.

17

18 DR. SHOBO: We have prepared the
19 PowerPoint to share with the public. We have a handout covering
20 the evaluation of chiropractic competency to perform the CDF
21 physical examination and I can direct your attention to the
22 PowerPoint. It's also available on our website. So we are here
23 today to receive public comment on the issue of chiropractors
24 performing the medical examinations for the CDF license.

25 In May of 2014, the Federal Motor

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1 Carrier Safety Administration mandated that for commercial
2 drivers they have to have their licenses and have to maintain a
3 valid state license to conduct medical examinations. They have
4 to complete the required training on the physical qualification
5 standards. The examiners have to pass the FMVSA medical
6 examiner certification test to demonstrate knowledge of the
7 physical qualification standards. They have to complete
8 refresher training every five years and recertification testing
9 every ten years. That is why we are having today to examine the
10 chiropractors' qualifications and training.

11 Today as you can see from the PowerPoint
12 what constitutes the Commercial Driver's License physical
13 examination. What are the requirements for medical examiners,
14 the certification and national registry listing and maintenance
15 and what chiropractic education and training is required in
16 Virginia and in other states?

17 So the Federal Motor Carrier Safety
18 Administration have physical examination requirements. Those
19 details are listed in the federal documents. There's physical
20 qualifications for drivers, instructions to the medical examiner
21 and form 559-F Medical Examination Report for Commercial Driver
22 Fitness Determination. The website provides information where
23 you can get any of this information.

24 Before you can do a medical examination,
25 you have to have a medical examiner's certification requirements

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1 and especially in their states. And all that is why we're here.
 2 Currently the EMCSA allows medical examiner has to have the
 3 requisite training and has to pass the medical examiner's test.
 4 The EMCSA training is shaped by curriculum provided as you can
 5 see before you. It procures existing clinical knowledge from
 6 professional education and training and focuses on EMCSA
 7 specific topics related to commercial drivers and the physical
 8 and mental demands of the job.
 9 Accepted training organizations must
 10 meet the EMCSA core curriculum specification. The training
 11 organization must be nationally recognized healthcare profession
 12 accrediting organization to provide the CE units and must
 13 provide training participants with proof of participation and
 14 EMCSA with a point of contact. There are forty testing centers
 15 throughout Virginia and that's currently. The EMCSA website
 16 indicates where these are.
 17 After the training is completed, there
 18 are certification and national registry listings. You have to
 19 appropriately complete all physical exams, medical examination
 20 reports and certificates; submit monthly online reports to EMCSA
 21 and inform within thirty days of any changes in application
 22 information; retrain every five years and retest every ten years
 23 and provide proof of eligibility upon EMCSA request or audit.
 24 There were 21 practitioners in Virginia
 25 as of June 21st, 2016. There are nine medical doctors, seven

1 doctors of osteopathy, four nurse practitioners and one
 2 physician's assistant. EMCSA may remove someone from the
 3 national registry with cause and subject to appeal and
 4 individuals may also request to be removed. The EMCSA online
 5 listing is updated continuously and the listing is accessible at
 6 the website indicated.
 7 The chiropractic education and testing;
 8 chiropractors are licensed in all U.S. states, D.C. Puerto Rico
 9 and Virgin Islands. The doctor of chiropractic earned through
 10 accredited programs most accredited through the Council on
 11 Chiropractic Education. There is a National Board of
 12 Chiropractic Examiners, NBCE, and parts of additional exams
 13 specified by respective states. The regulations governing the
 14 practice of medicine, osteopathy, podiatry and chiropractic
 15 provide detail Virginia requirements.
 16 The Federation of Chiropractic Licensing
 17 Boards has an extensive directory of information regarding the
 18 boards and licensure requirements also available on the website.
 19 The education and testing information website provides an
 20 at-a-glance table that compares state requirements, also
 21 available on the website.
 22 The current standards curriculum, the
 23 Association of Chiropractic Colleges report that CCE accredited
 24 programs last four years and addresses the following topics and
 25 you can see those on the PowerPoint.

The NRCSE parts required in Virginia:
 there is part one, part two, part three. Part three deals with the clinical areas and part four has the national practical exam with three major sections with each divided into stations, the diagnostic imaging, chiropractic techniques and case management.

A little bit more information available, Virginia's DHP statistics and the Federal Chiropractic Board also has the, and that's available on the website and has other available information as you can see. That's all available on the website.

The U.S. Bureau of Labor Statistics Employment and Wage Comparisons of Virginia and Surrounding States that approve the CDL physical exam. And I believe this was the statistics as of May of 2015. You can see Virginia and you can see Maryland and North Carolina.

This is just a short briefing on some of the facts that are available. Additional information can be provided if desired.

MR. WELLS: Are there any questions? At this time, I will call on persons who have registered to speak.

As I call your name, please come forward, state your name and where you're from, and who you represent if you wish to do that.

The first person I'll call is David B. Delberg.

DR. DELBERG: I am Dr. David Delberg, president of Virginia Chiropractor's Association. I have

practiced in Springfield, Virginia since 1982. On behalf of my organizations members, I want to thank you for agreeing to address this issue, which is so important to Virginia doctors of chiropractic and to ensure that patients have access to services that we are clinically trained to provide.

This is a frustrating issue for us since Virginia chiropractors were legally authorized to provide physical exams for Commercial Driver's Licenses for the past 13 years. And as we understand, this was with no known complaints and fine with the Department of Motor Vehicles, the Department of Transportation or the Board of Medicine. This changed only because a recent federal law now requires state law to specifically authorize the ability to provide physicals.

With this new federal law, the Code of Virginia must specifically say a doctor of chiropractor can do these physicals. The U.S. Department of Transportation continues to include chiropractors on the list of those who may become what they called Certified Medical Examiners but for us to do so, we need to change Virginia law to specifically say so.

While I will let others address the details, I can assure you our training provides physical exams greatly exceeds that required for applicants for a Commercial Driver's License.

We appreciate the opportunity to provide information about our professional training and for your time

1 laws specifically had to say that if a profession was to be
 2 accepted by NCT to provide CDLs that profession had to be listed
 3 in their state law as being able to provide physical exams.
 4 Thus at that point in time, chiropractors ceased providing that.
 5 As a result, what they've been trying to do is to try to
 6 reestablish through legislation their ability to once again
 7 provide these physicals. And again, in that period of time,
 8 there is no known reported patient harm or complaints.
 9 That leads us to the purpose of today's
 10 spending the morning here. That was at the request of Delegate
 11 Bobby Orrock and you may not realize is chairman of the House
 12 Health and Welfare Institutions Committee. Specifically, he
 13 asked this group to take a look at the education and training of
 14 chiropractors to perform physical exams, specifically for
 15 requirements for a CDL. If in fact that training covers all
 16 elements that the federal regulations report form require in
 17 that.
 18 What we have done and I presume it was
 19 distributed previously, we have provided documentation what we
 20 have done is provide Dr. Carter trying to expedite your process
 21 in time, we have provided for her review and distribution into
 22 your numbered document and we're pretty confident we'll lead you
 23 to providing a clear yes on both of Dr. Orrock's questions. We
 24 provided the letter from the Council of Chiropractic Education,
 25 which credits all the chiropractic colleges and their doctoral

1 this morning. Thank you very much.
 2 MR. WELLS: Bruce Keeney.
 3 MR. BRUCE KEENEY: Good morning, I'm
 4 Bruce Keeney of the Keeney Group representing Virginia
 5 Chiropractors Association. I want to take a second to give you
 6 a little bit of a historical perspective. As Dr. Dolberg
 7 mentioned, back in the mid-1980s, there was legal opinion
 8 provided from the Board of Medicine, which is the licensing
 9 board of Virginia which licenses chiropractors confirming that
 10 they were in fact legally authorized to perform physical exams
 11 and that was, in fact, part of their scope of practice. Thus
 12 there was confirmation from their licensing board that
 13 chiropractors could legally provide physicals for Commercial
 14 Driver's licenses that we call CDLs. It was based on still
 15 current Virginia law, which includes chiropractors as a
 16 practitioner of the healing arts. That statute confirms that
 17 chiropractors as a practitioner of the healing arts deal with
 18 prevention, diagnosis, treatment, and cure and alleviation of
 19 human physical ailments in addition to diseases, pain and that's
 20 the definition in statute that's applicable to medical doctors,
 21 chiropractors, practitioners of the healing arts.
 22 Later, legal opinions relied on a
 23 stricter interpretation of other provisions in the statute and
 24 indicated they could no longer provide physicals. Then a couple
 25 of years ago, the regulations changed and said that the state

1 degree program. This document confirms that the education and
 2 clinical training in all of the professions and colleges in fact
 3 train for physicals even to a much greater degree than what's
 4 required for CDL. We'd also like to point out that the
 5 Board of Medicine sets the criteria for licensure for
 6 chiropractors in Virginia. One of those is that every applicant
 7 for licensure as a chiropractor in Virginia must get a doctor's
 8 degree from a CCE accredited program.

9 Secondly, we've provided a copy of the
 10 letter from the provost of the New York Chiropractic College,
 11 which confirms from a personal standpoint that their school
 12 does, in fact, provide extensive training and physicals in the
 13 classroom and clinical, which all schools do. Just as
 14 important, we provided a document from the director of testing
 15 of the National Board of Chiropractor Examiners, which you have
 16 reference to. That essentially says that 78% of part three of
 17 the National Exam includes a recent assessment of competency for
 18 chiropractors to perform physicals and that over half of part
 19 four would include an extensive critical assessment of the
 20 competency to perform physical examinations.

21 Part four is somewhat unique to this
 22 profession and other health professions. Their national still
 23 involves Part four of examination of live patients. Part four,
 24 you have over fifty percent of your national exam where the

1 applicants for their national boards are doing physicals on
 2 patients as part of their testing. The point there is this, an
 3 additional requirement under the Virginia Board of Medicine is
 4 for licensure that the applicant for licensure as a chiropractor
 5 in Virginia must also complete and pass the national boards. We
 6 have the CCE accreditation saying you're trained as well as
 7 competency assessed by your national boards.

8 We've also provided copies of
 9 communication between Virginia's Department of Motor Vehicles
 10 and state Senator Steve Newman in which the Commissioner's
 11 office confirmed that Virginia chiropractors have prior to 2014
 12 been providing CDL physicals and we've given documentation,
 13 which you have seen already from the U.S. Department of
 14 Transportation, better known as the Motor Carrier Safety
 15 Administration. We're going to start using initials before too
 16 long, authorizing them to provide CDLs.

17 Recently and some of you may not know,
 18 the state of Connecticut went through similar questions in a
 19 declaratory ruling, they actually went through and took every
 20 single element in the physical exam and analyzed the training
 21 and schooling not dealing with the national boards and found
 22 every single one of those elements as included in the physical
 23 exam is in fact included. We provided a copy so you don't have
 24 to go through that exercise.

25 Probably the most important things that

1 sometimes people forget as an overview is that the DOT or the
 2 Safety Administration states that the required OBT physical does
 3 not and should not be considered as an examination provided with
 4 a definitive diagnosis. It does not provide a definitive
 5 diagnosis. What this type of physical represents and this is in
 6 my layperson terms is a pretty comprehensive screening to detect
 7 certain warning signs or symptoms. A couple of examples are,
 8 the first section, the patient writes down their history as they
 9 see it.
 10 During the second examination, a vision
 11 examination. It's the same test you get at EMV when you put
 12 your eyes in the machine and they test your acuity and some
 13 doctors will still have a twenty foot hallway and have the eye
 14 chart. Visual fields with a finger test and nothing automated,
 15 all of which are trained in chiropractic program and part of
 16 their national boards. It is not a comprehensive eye
 17 examination, not something that determines if you have an eye
 18 problem and not something you can get a prescription for
 19 eyeglasses.
 20 Hearing tests and I'm not an expert in
 21 audiology so I can't talk on that but clearly it's a screening.
 22 Blood pressure is tested by an automatic, urine and limited
 23 blood tests are either stick tests where the patient is sent to
 24 a lab. Review of medications, patient self-reporting and the
 25 DOT process to give the examiner a list of drugs they should

1 look out for and symptoms and if any of those drugs are listed
 2 on the form supposed to check it off, that is that aspect in
 3 that.
 4 The blood part and evaluations and all
 5 the stethoscope, listen for any abnormal sound and they're not
 6 going to turn around and not expect it to turn around and
 7 provide diagnosis of the cardiac or pulmonary problem. What
 8 you'll find in this and later on you'll hear that there are
 9 chiropractors in Virginia that were doing that. In fact, in
 10 this process of doing GDLs, we made some very much appreciated
 11 referrals to cardiologists and pulmonologists after this
 12 physical exam picked up some abnormalities that needed referral
 13 and were in immediate need of treatment to be provided by the
 14 specialist MD.
 15 I won't go on more specifically in that
 16 process with the elements but I wanted to emphasize it's a
 17 screening and it's a much better screening than all of us may
 18 get when you stop by the mall and there's a monitored health
 19 screen; there's no doubt about that. It's not something that
 20 you would expect nor does the DOT expect it to be a definitive
 21 diagnosis. It's a physical in which one looks for symptoms of
 22 conditions which would then require referral.
 23 We have provided documentation for the
 24 departments and the Board of Health Professions to affirm
 25 doctors of chiropractic are in fact clearly trained and

1 competent to perform CCL physicals and they are Virginia
 2 practitioners of the healing arts and provide primary care
 3 across the Commonwealth in all areas; rural, suburban, urban.
 4 We hope at the end of this hearing your
 5 Committee will be in full agreement of the clinical competency
 6 to provide these physical exams for applicants for renewal of
 7 Commercial Driver's Licenses. And just as important, we're not
 8 aware of any substantiated evidence to the contrary. Thank you.

9 MR. WELLS: Thomas Wetzen.

10 DR. WETZEN: Good morning, thank you for
 11 listening to all of us. I'm Dr. Thomas Wetzen. I'm a
 12 chiropractor and I practice in Northern Virginia. And I'm the
 13 immediate and past president of the Virginia Chiropractic
 14 Association and I'm currently the district representative for
 15 the Congress of Chiropractic State Associations.

16 To assist in your addressing whether our
 17 profession has the requisite training to conduct physicals for
 18 applicants for a Commercial Driver's License, I would like to
 19 provide additional background information. As was presented
 20 earlier after our undergraduate training and we complete a four
 21 year doctorate degree program from a fully accredited school,
 22 college of chiropractic. This education and our clinical
 23 training prepares us as chiropractic physicians and as
 24 independent healthcare providers. We are or we provide postal
 25 of entry care services related to our training and our

16
 1 specialty. These services are without supervision, direction or
 2 referral from other professions.

3 As part of the healthcare system, we
 4 refer to other professions when we detect abnormal conditions or
 5 symptoms that require such referrals. More frequent than some
 6 may realize, these referrals may be to cardiologists,
 7 pulmonologists, orthopedists, family physician, whatever the
 8 case may warrant.

9 Our training emphasizes spine and nerve

10 energy pathways, meaning the central nervous system and the
 11 peripheral nervous system. As such, the spine protects a
 12 portion of the central nervous system and the peripheral nervous
 13 system essentially communicates with every other system in the
 14 body. Therefore, you can understand why our profession needs to
 15 be so well trained in providing physicals. This is why in our
 16 first year of school, we take classroom training and we get
 17 practical instruction on how to do physical exams for those
 18 procedures.

19 In clinical training, providing

20 physicals for the remaining three years of our schooling.
 21 Training is much more comprehensive than that needed for
 22 Commercial Driver's License applicants. When one understands
 23 the relationship between the spine and nerve energy pathway it
 24 becomes clear as to why our profession includes extensive
 25 training in physical examinations. Our training in physical

1 examinations allows us to know when to treat and most
 2 importantly when to refer. Thank you.

3 MR. WELLS: Craig Little.
 4 MR. LITTLE: Good morning. I'm Craig
 5 Little and I'm from Scottsdale, Arizona. I'm President of the
 6 Council on Chiropractic Education or CCE, which was referred to
 7 in the earlier presentation. My background is in higher
 8 education, prior to that as a practicing chiropractor and I've
 9 done that for thirty years. I have a master's degree in
 10 education and currently completing my doctoral degree in
 11 education.

12 The CCE is the only agency that is
 13 recognized by the United States Department of Education to
 14 accredit the chiropractic programs. It's not just exclusively
 15 for chiropractors and we have public members and we have
 16 educators and other clinicians. Our current chair is a practice
 17 nurse who completed her doctoral degree in education serving as
 18 our chair.

19 We set the academic and clinical
 20 requirements of every chiropractic program and ensure that every
 21 graduate has met those requirements. We set the standards for
 22 core education requirements including general health sciences,
 23 toxicology, pharmaceuticals, anatomy and all systems of the
 24 human body. The didactic construction of the physical exam
 25 starts in the first academic year. In the second year, there is

18

1 the routine of each other as students and an examination of the
 2 student population. About the third or fourth clinical years,
 3 exposure to actual physical examinations on outpatients.
 4 Training for physical exams is
 5 imperative serving as a direct contract for provider. Many
 6 other clinical conditions masquerade as a condition presented to
 7 a chiropractor. That includes a multitude in a number of
 8 systems, vision, cardiac, pulmonary and all systems.
 9 The CCE standards require verification.
 10 We are a competency based educational standards in the area of
 11 diagnosis and case management to ensure that graduates practice
 12 from portal of entry of primary care chiropractic physician.
 13 This is accomplished in two ways.
 14 Curricular and as clinical evidence through outcome measures.
 15 These competencies are then evaluated on good national
 16 standardized testing of procedure with the National Board of
 17 Chiropractic Examiners. These areas include neurology,
 18 pulmonology, cardiology, diagnosis, dermatology and
 19 ophthalmology.

20 The curricular components of the
 21 chiropractic college provide for these competencies in
 22 examination at the level of the Commercial Driver's License
 23 including all those elements. The education and training of
 24 doctors of chiropractic is at a physician status level and are
 25 recognized in the federal statutes and recipients for Medicaid

1 and Medicare services.

2 In my prior life, I served in research

3 in the evaluation of chiropractic work. For eighteen years I

4 was appointed to the American Medical Association's Healthcare

5 advisory and including chiropractic nomenclature. Chiropractors

6 use the same codes as all other physician disciplines because of

7 the work they do; examination of all body areas and organs.

8 The education and clinical training of

9 chiropractors is accepted by the U.S. Department of

10 Transportation, Federal Motor Carrier Safety Administration. We

11 talked about earlier. This competency was verified in a 2007

12 world delineation study. They did the same work as you're doing

13 right now, looking at the education and verify the competencies

14 and did a direct observation medical physicians, osteopathic

15 physicians and chiropractic physicians as well as nurse

16 practitioners and physician assistants. The rigor of the survey

17 process itself as well as the direct observation and well over

18 two-thirds completed all elements of all the disciplines. Over

19 98% actually were very comfortable with the type of evaluation

20 of the CPE.

21 The Virginia Board of Medicine requires

22 as was stated earlier licensure as a chiropractor to earn their

23 doctor of chiropractic degree from a CCE accredited institution

24 or program. All applicants pass all parts of that national exam

25 ensuring that every doctor of chiropractic license in Virginia

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1 has completed a program and been tested on his or her of those

2 actual competencies. From what I know, this board has been

3 asked to determine in your opinion do chiropractors have the

4 requisite education and training to perform CPE physicals as set

5 forth in the federal regulations and whether that education and

6 clinical training applies to each element of the CPE physical

7 exam form requirement in the federal regulations.

8 As president of the accrediting body for

9 our doctoral degree program, I can assure you from an

10 educational and competency perspective that that answer is

11 definitely yes.

12 To briefly summarize the accreditation

13 process for the chiropractic college has the requisite education

14 and training to perform these elements. The Council on

15 Chiropractic Education requires evidence of each student

16 obtaining competency prior to graduation and the National Board

17 of Chiropractic Examiners ensures that extensive testing of

18 competency has been done in performing those physical

19 examinations.

20 As was mentioned earlier, part of it is

21 a written examination but the last part is an exact direct

22 observation of a candidate examining a patient. The Board of

23 Medicine license to practice chiropractic requires a doctoral

24 degree from a CCE accredited program and passing all parts of

25 that. Department of Transportation's recognizes chiropractic as

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21
 1 one of the specialists and actually confirmed the competence of
 2 chiropractors in that 2007 world delineation study. At that
 3 time over 400 chiropractors were surveyed and over 185
 4 osteopathic physicians were surveyed and over 187 medical
 5 physicians were surveyed.

6 In conclusion, there's certainly doctors
 7 of chiropractic are certainly educated and trained to perform
 8 the examination and particularly all of the elements of the CCL
 9 examination. Thank you for the opportunity and it's a pleasure
 10 to be with you today.

11 MR. WELLS: Brad Robinson.

12 DR. ROBINSON: Good morning, thank you
 13 for spending your morning with me. I'm Dr. Brad Robinson, past
 14 president of the Virginia Chiropractors Association and I
 15 practice in Norfolk. If you've ever been the past president of
 16 any organization, you appreciate because you may be called upon
 17 by the more senior of your group, that's me today, which is
 18 scary because I used to be the young guy. I graduated from
 19 chiropractic college in 1986 and I mention that to point out
 20 that our training, physical examinations is not something new.

21 My colleagues who earned their doctorate
 22 degrees some years ago, my four years of chiropractic college
 23 and extensive classroom and clinical training to perform
 24 physical examinations including but not limited to history,
 25 orthopedic, neurological, heart and other examinations. Careful

22
 1 observation of patients; for example, in addition to evaluating
 2 the spine and nerve system, we were taught to identify abnormal
 3 breath sounds, heartbeats, bowel sounds, checking for abdominal
 4 masses and including performing physical examinations on live
 5 patients. First we practiced on our fellow students and then
 6 clinical patients.

7 Like all other health professions,
 8 checking for abnormal conditions or symptoms is necessary before
 9 starting any treatment or making an appropriate referral. In my
 10 own experience, I found abnormalities in the heart and lung and
 11 referred to appropriate providers. That starts with the case
 12 history that includes observation by the healthcare provider and
 13 moves towards specific tests and procedures. It's no different
 14 with chiropractic palpitations. Because of the relationship of
 15 the spine and the nervous system, so much of our training and
 16 physical examinations are extensive.

17 I want to thank Delegate Bobby Gricek
 18 for asking the questions of you specifically, and chiropractors
 19 trained to provide physical examinations for the Commercial
 20 Driver's License. We are and we have been trained to provide
 21 that service in the physical examinations. Thank you.

22 MR. WELLS: Len Burdick.

23 DR. BURDICK: Good morning, my name is
 24 Len Burdick. I guess I'm from the trenches. I'm a chiropractor
 25 in Onley, Virginia and I've been performing these physical

1 examinations for years for drivers or for ones that were getting
 2 their Commercial Driver's license for the first time. When the
 3 Federal Motor Carrier Safety Administration announced their move
 4 to a certified medical physician do these examinations, I
 5 thought I'd be proactive. I took the test and passed, I took
 6 the exam and passed and was listed on the national registry and
 7 by the medical examiners until the state of Virginia reported
 8 that chiropractors could no longer do them until this question
 9 had been resolved. I can't do the physicals anymore because
 10 state law needs to say that.

11 What we're asking today is please
 12 consider us and you've been asked to determine if we're
 13 qualified to do the physicals. Like all other chiropractors, my
 14 chiropractic college provided extensive education in physical
 15 exams before I could earn my chiropractic degree. This training
 16 included everything on the CDL physical and before I could get a
 17 Virginia license, I had to pass the national board examination,
 18 which also attested I was able to perform these physical
 19 examinations. My chiropractic education prepared me for it and
 20 the CDL exams and I was doing them legally in the Commonwealth
 21 for years.

22 Please understand during these

23 physicals, we're not providing a diagnosis, we're strictly
 24 screening to see if there are symptoms or findings that would
 25 pose a public risk of safety for that commercial driver behind

1 the wheel. And when we find it, we refer it to the specific
 2 doctor whether it's cardiologist or neurologist or specialist to
 3 determine if there's a problem that needs to be treated. They
 4 treat it and we don't. Then we have to get a letter back from
 5 that specialist stating that they've been examined and what
 6 their diagnosis is and what their treatment is and if they're
 7 safe to operate a motor vehicle. Then we can approve their
 8 medical examination once that's been done. Prior to that, they
 9 fail the exam until all the other findings are in.

10 I have letters from cardiologists for
 11 people I referred for examination and thanked me for problems we
 12 uncovered with this exam and we're able in most cases to get
 13 them on the road under safe conditions. Our goal is to provide
 14 a thorough screening as set forth by the federal requirements
 15 and we are qualified to do the physicals and I hope you will
 16 agree and recommend that we be allowed to perform these
 17 examinations in the future.

18 MR. WELLS: Joe Foley.

19 DR. FOLEY: Good morning, Dr. Joe Foley,
 20 doctor of chiropractic and I've practiced in Salem, Virginia for
 21 the last 25 years. I am the legislative chair for the Virginia
 22 Chiropractors Association. That keeps me involved in topics
 23 like this. What I want to point out is that we have a lot of
 24 people that have subjects with this and we have the idea of the
 25 registry for certification, certified medical examiner, that's

1 set up to allow for drivers from any state. If they're a driver
 2 from Texas, they don't have to do back to Texas and if they're
 3 on the road in Chicago and they need to have an exam, they can
 4 look on the registry and find an examiner and have it done and
 5 get it done from this registry wherever you are.

6 All the states around Virginia like
 7 North Carolina, Maryland and Delaware and West Virginia are
 8 legally doing these examinations and they're on the registry.
 9 There are Virginia drivers that get their examinations done from
 10 a chiropractor say in North Carolina or West Virginia. They
 11 can't do it from a chiropractor in Virginia.

12 That brings up a unique circumstance. I
 13 know a chiropractor who has a Virginia license and a Maryland
 14 license, a doctor of chiropractic. He's a certified medical
 15 examiner but he has to tell patients from Virginia I can't do
 16 your CDL and you've come here for years to do the CDL and I
 17 can't do it when I'm standing in Virginia but if you come to my
 18 Maryland practice, I can do it; same doctor, same
 19 qualifications. He can do it in another state but if he does it
 20 in Virginia, it's not valid and that's only because the law
 21 needs to be updated.

22 Federal Motor Carrier Safety
 23 Administration created this registry and a good idea but they
 24 said each state law had to say that we could do these. The
 25 Virginia Code does not specifically say that and as a

1 legislative chair that's my involvement to update the Code of
 2 Virginia to reflect that. It's a little silly that a doctor has
 3 to go to Maryland and then drivers from Virginia and have
 4 licenses accepted by the DMV and done by doctors of chiropractic
 5 in other states, 47 other states. This is just reclassifying
 6 that they've been doing these for decades and there's a little
 7 glitch in the Code that needs to be updated but it's not an
 8 expansion of chiropractic but a continuation of what we do and
 9 what 47 other states do. I'm glad to report back to Delegate
 10 Crockett that we are qualified and certified and this is not a
 11 unique circumstance at all but we'll have to proceed with
 12 changing and updating the Virginia Code. Thank you.

13 MR. WELLS: Scott Johnson.
 14 MR. JOHNSON: Good morning, I'm Scott
 15 Johnson. I'm general counsel to the Medical Society of
 16 Virginia. I'm delighted to be here this morning with you. I
 17 want to thank you on behalf of the Medical Society of Virginia
 18 for your time in looking at this issue. And I feel like this is
 19 a long time coming. For two years, since this issue first
 20 arose, members of the Medical Society, including myself, have
 21 been asking the question educate us and tell us about
 22 chiropractor training. When you think of a chiropractor and
 23 many people go to them, you're thinking about your back feeling
 24 better when you leave and not necessarily somebody looking at
 25 bloodwork or somebody talking about vision problems. It is

1 inherent to try to figure out how that works and what the
2 details are and I applaud you for that.

3 Information that Dr. Carter has gathered
4 and prepared and the PowerPoint this morning is extremely
5 beneficial. Also, the testimony from the gentlemen who have
6 testified before me has been very helpful. Many of the
7 questions that we have, this information is coming in and I told
8 Mr. Keeney that many weeks back don't expect the Medical Society
9 to come in here and say this is a turf war or turf battle, we
10 want to say no before that.

11 You want to make your decisions on
12 science and facts and we want to make our decisions on science
13 and facts and we all want to protect the public and that's
14 certainly consistent.

15 We look forward to engaging with you on
16 this and one of the things I think is going to be key is making
17 sure you've got consistency in education or whether you're a new
18 chiropractor or have been out before and has you're dealing with
19 it and these complex issues. You've heard several folks testify
20 before this, this is not about enabling a chiropractor to make
21 the diagnosis and they say that. This is intended to be a
22 screening tool consistent with passing the examination that the
23 Federal Motor Carriers have established and that's why the
24 legislature sent this to you because they, too, asked these same
25 questions. They're saying are chiropractors qualified to do

1 CULS and they didn't get their questions answered so they sent
2 it to you and congratulations, you have the homework assignment.

3 I look forward to you having a thorough
4 report back and I look forward to providing you additional
5 information from the Medical Society based on what we heard. We
6 haven't been given any of the documents that Mr. Keeney
7 referenced that were submitted to you this morning but I
8 understand that will be included in information we can get from
9 you. We went online to see what was posted before the meeting
10 and we look forward to getting Dr. Carter's PowerPoint
11 presentation and we can take it back and digest it.

12 Again, thank you for your time and we
13 look forward to partnering with you and have a good day.

14 MR. WELLS: Thank you, Mike Megehee.

15 DR. MEHEHEE: I'm used to that my whole
16 life, Megehee with an E on the end is hard to forget and
17 sometimes I have to apologize for that. My name is Mike Megehee
18 and I'm a doctor of chiropractic and I've been in the
19 chiropractor practice in the state of Oregon for 26 years. I
20 graduated from the University of Western States with my doctor
21 of chiropractic with honors. In 2005, I was selected to be a
22 member of the brainstorming sessions that created or pre-created
23 the National Registry of Certified Examiners. After these
24 national brainstorming sessions, I was appointed as a member of
25 the National Registry working integrated project team. And this

1 served the basis for certification of the National Registry of
2 Certified Medical Examiners.

3 We developed and evaluated the
4 delineation study and identified 117 or so tasks and went
5 through the knowledge and skills assessment scoring of those
6 skills. Having completed that, I was then appointed to the
7 National Registry working integrated project team for developing
8 the accredited physician training core curriculum and I served
9 on that panel until 2005. I now serve as an FMCSA national
10 registered champion assisting the FMCSA in further development
11 to obtain admission and goals for the National Registry of
12 Certified Medical Examiners. I'm also president of team CME,
13 the largest national network of certified medical examiners in
14 the United States. We are an accredited Federal Motor Carrier
15 accredited training organization having provided training for
16 well over 5,000 certified medical examiners for all professions.

17 What I'd like to talk to you about
18 briefly is a little bit of a description of the actual physical
19 exam. These comments come from the FMCSA medical examiner
20 handbook. Your responsibility as an FMCSA medical examiner is
21 to determine medical fitness for duty and issue medical examiner
22 certificates. The actual examination falls into a specialty
23 track of physical exams and it's a fitness for duty exam. FMCSA
24 describes physical qualification examination of interstate
25 commercial motor vehicle drivers to be a medical, physical

1 examination.

2 What is the role of the certified

3 medical examiner? And all of this is coming from the handbook.
4 As a medical examiner, you're examining for medical fitness for
5 duty; not diagnosing and treating personal medical conditions.
6 Diagnosis and treatment of a medical condition does not fall to
7 the role of a certified medical examiner, you can do that if you
8 wish but it's not part of the role.

9 You are to seek further testing and
10 evaluation for those medical conditions of which you are unsure.
11 In general practice, that's what chiropractors also do as
12 they're doing examination on patients when they find something
13 that's abnormal, typically refer them to a specialist. It says
14 refer the driver to his or her personal healthcare provider for
15 diagnosis and treatment of potential medical conditions
16 discovered during your examination.

17 You've already talked about what's

18 included in the national registry so I'll go past that. Why
19 must chiropractors do physical exams? The answer is, we have
20 to. And the reason is that if you look at the body systems, the
21 commercial driver physical exam or any general exam, we have to
22 be able to go through all the systems because every one of these
23 symptoms can mimic a condition that is treated by a
24 chiropractor, whether it's heart, eye, ears, abdominal, all of
25 those symptoms do have medical conditions that may refer a

1 symptom to the spine. In order for public safety, you have to
2 be able to do this. And I've brought evidence of that that we
3 are and have been doing that.

4 I have a copy of the new medical
5 examiners report form and medical examiners 59-75 and this is
6 the new report form we're now using and a little more extensive
7 in the history portion of the exam. It asks more history
8 questions that certified medical examiners follow up on. I went
9 back to the University of Western States because I remember in
10 1991 when I graduated that I did over and over and over and over
11 general physical exams. I asked to have those documents sent to
12 me. Now, these are from 2010; they're not the most recent
13 because in 2010, we went to electronic recordkeeping and they
14 couldn't print the exams for me. I had the general physical
15 exam and I can tell you that this general physical exam exceeds
16 the general examination required for commercial drivers and
17 that's not all.

18 There are regional exams and typically
19 when you go to a chiropractor, he may perform a general exam on
20 you. In some instances, I go to an endocrinologist and never
21 done an abdominal exam on me, he only takes my blood pressure
22 and weighs me and counsels me. As far as checking my eyes or my
23 heart or doing anything else, they hadn't performed that. Why?
24 Because it wasn't really needed. It doesn't mean he was not
25 qualified to do it. So I have the exam form here for heart and

1 lung and not even for high blood pressure, which is pretty easy.
2 Eyes, ears, nose and throat, abdominal exam, neurological exam,
3 most of these are two pages long. Functional capacity exam for
4 the lower back and the upper back.

5 In my own practice in doing physical
6 exams, I ran across a couple of undiagnosed serious medical
7 conditions and one of them in particular was a heart condition
8 where the driver went in for immediate heart surgery. Another
9 was the identification of an AAA, abdominal aortic aneurism,
10 which when those burst even if you're in the hospital, you're
11 likely to die.

12 What I'm trying to say is that we are
13 trained to do these and we don't use them in everyday practice
14 but we can when it's called for. In my practice over the years,
15 I wondered why these kinds of discussions come up and for the
16 first seven years that I was a chiropractor, I was a very
17 unhappy chiropractor and the reason was because I felt like I'd
18 been overqualified and I had been over-trained for adjusting the
19 spine. It wasn't until later that I realized that we do use
20 these tools that we have in order to detect abnormalities and
21 that's really all you need to do with this exam is to detect
22 abnormalities and refer the driver to the appropriate healthcare
23 provider and let them do the diagnosis.

24 And then once you have the diagnosis as
25 a certified medical examiner, now what you do is apply the

1 medical standard for commercial drivers to determine if the
2 driver is safe to drive. There are medical guidelines like the
3 FMCSA in order for us to be able to do that.

4 So I thank you for your time and I would
5 encourage you to allow chiropractors to do what we're trained
6 for and we're trained for it and we can do it. Thank you.

7 MR. WELLS: Bo Keeney.

8 MR. BO KEENEY: I'm Bo Keeney, vice
9 president of the Keeney Group, also representing the Virginia
10 Chiropractic Association. The tough part about going towards
11 the end is that most people in front of you have now stolen your
12 thunder and I'll try not to repeat myself so much and everybody
13 getting back here today.

14 The document I handed out to you is
15 actually the document that's been provided to the legislators
16 that have heard this issue the last two times it has come before
17 them. It's also been provided to the Medical Society of
18 Virginia and the Academy of Family Physicians, which have been
19 two of the entities that have proposed legislation. What
20 you'll take note of specifically at the bottom is representation
21 from New York Chiropractic College, the Federation of
22 Chiropractic Licensing Board and the National Board of
23 Chiropractic Examiners, all speaking to the fact that
24 chiropractors have the educational standards and training
25 required for the Certified Medical Examiner's criteria.

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1 Page two and three of this, which I know
2 you already have in your packets, is an actual copy of the
3 examination form that the medical examiners must use. It
4 directly references back to the first page a summary of all the
5 various components. It's very clear from the testimony you've
6 heard today from the individuals here that chiropractors
7 certainly meet all of those criteria.

8 One thing I would ask of staff and it
9 appears that some of the documentation that was provided to you
10 or the department may not have been distributed to everybody. I
11 actually personally handed and I delivered those documents to
12 the department so I know that they were provided. This
13 particular year, we did provide updated copies and letters from
14 CCE, National Board of Chiropractic Examiners and various
15 colleges and universities and the Federation of Chiropractic
16 Licensing Boards. You all have the documents if they have not
17 been shared with you and with the Medical Society or other
18 professional groups. I would ask the Department to surely share
19 those with the members of the Committee and anyone else
20 requesting that information.

21 Those various letters are additional
22 documentation as far as clinical didactic training. Everything
23 you've heard today and everything that you will see in that
24 documentation and letters directly correlate to the question
25 that Delegate Bobby Crook has asked of this body. Specifically

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1 and I know you've heard it time and time again and it's whether
 2 or not chiropractors do or do not have the requisite education
 3 and training to perform Chiropractors and Physicals as set forth in the
 4 federal regulations.
 5 The federal regulations are very clear
 6 as far as what they're asking. The education and the training
 7 has certainly been well documented here by the testimony of
 8 these individuals. We did want to make you aware that there is
 9 additional information and additional documents that is
 10 available if you have not already seen it and the Department
 11 should have it. Now, if they do not, we have copies we can
 12 certainly provide to you once again but that certainly is
 13 another layer of information for you all to base your decision
 14 on. So thank you for your time today.

15 MR. WELLS: That concludes all the folks
 16 that have signed up to speak. Is there anyone else that would
 17 like to speak at this time? If not, I would like to thank all
 18 of you for taking your time to come today and offer comments on
 19 this review. We will consider all the comments in developing
 20 our recommendation. Written comments will be accepted until
 21 five p.m. July 15th, 2016.

22 So again, thank you for taking your time
 23 to participate and this will conclude the hearing.

24
 25 CONCLUSION OF PUBLIC HEARING

CERTIFICATE OF THE COURT REPORTER

1
 2
 3 I, Medford W. Howard, Registered Professional
 4 Reporter and Notary Public for the State of Virginia at large,
 5 do hereby certify that I was the court reporter who took down
 6 and transcribed the proceedings of the public hearing of the
 7 VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS, REGULATORY RESEARCH
 8 COMMITTEE; CHIROPRACTORS AND CML PHYSICALS. Hearing held on
 9 June 28, 2016 in Board Room 2 at 10:00 a.m.

10 I further certify the foregoing transcript is a true
 11 and accurate record of the testimony and other incidents of the
 12 hearing herein, to the best of my ability to hear and
 13 understand.

14 Given under my hand this 7th day of July, 2016.

15
 16
 17 
 18 Medford W. Howard

19 Registered Professional Reporter
 20 Notary Public for the State of Virginia at Large
 21 My Commission Expires: October 31, 2018.
 22 Notary Registration Number: 224566



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

October 15, 2015

The Honorable Senator Kenneth Alexander
Senate of Virginia
P.O. Box 396
Richmond, VA 23218

Dear Senator Alexander:

This is in response to your request for the Department's assistance in studying options for separate funeral director-only and embalmer licenses. The review was assigned to the Board of Health Professions (BHP) due to its authority under §54.1-2510 of *Code of Virginia* to make recommendations on the need for regulation of health professions and to promote standards for their competency assessment. The following details BHP's findings and offers additional technical assistance from the Department.

Virginia issued separate licenses for Funeral Directors and for Embalmers until 1974 when a unified Funeral Service License was instituted. The separate categories of licenses were maintained because grandfathering permitted renewal of those licenses by existing holders. But since then, all *new* licensure candidates have had to demonstrate competence in the full array of funeral services, including embalming. At end of FY 2015, there were 1,422 Funeral Service Licensees (FSLs), 41 Funeral Director, and three Embalmer current, active licenses.¹

BHP conducted a review of all 50 states' statutes and regulations governing the funeral and embalming professions and the relevant public disciplinary information. A detailed overview is provided in Attachment 1, "5states Licensure." Early on, it became clear that there is too much variability among the states on factors that could enable direct comparisons related to type of regulatory scheme possible. There are differing professional titles², practice scopes and standards, initial and continuing licensure requirements, and even the structure and processes employed by the overseeing regulatory bodies vary considerably from state-to-state.³

¹ Two of the Funeral Directors also held Embalmer licenses.

² Protected titles included "Embalmer," "Funeral Director," "Funeral Practitioner," "Funeral Service Provider" "Mortician" and "Undertaker," and several additional variations.

³ Some states regulate both Funeral Directors and Embalmers (or title variant), some regulate only one of these, and one state, Colorado, does not regulate either. Regulating organizations include licensing boards and agencies, health departments and, in California, a professional association.

Public disciplinary information was available in less than half of the states; the volume of cases per state was small and was reported in widely differing date ranges. What was available largely involved failing to obtain or maintain current licensure, insufficient continuing education, and a few cases of fraud related to contract arrangements. These referenced state-specific regulations that do not readily translate to other states. The Board concludes that it would not be reasonable to attribute differences in the prevalence of the states' disciplinary cases to differences in licensure scheme or any other factor.

BHP also gained independent insight into Virginian's views about multi-licensure to include a separate, new, funeral director only category. A public hearing was held on May 28, 2015 with additional written comment accepted until June 30, 2015. Attachment 2 summarizes the commenters' positions and also includes the complete public hearing transcript and all correspondence received. The responses were almost evenly divided in favor and against, with three commenters taking no position. Several pro and con themes emerged as follows:

PRO	CON
<ul style="list-style-type: none"> Noted difficulties in hiring FSLs. Held that a separate license approach would increase the pool of candidates by accommodating those interested in assisting families with arrangements but not in embalming. 	<ul style="list-style-type: none"> Countered that there is no difficulty in hiring throughout the state and no shortage of new students or graduates in Virginia. Several commented on the benefits of current regulatory provisions that enable working while completing education, with online options available. Noted difficulties in SCI's hiring are occurring nationwide, in states with multi- and single licensure schemes. Expressed strong concern over adverse effects of eliminating laboratory competency and about a funeral director-only licensee's ability to fully inform consumers about the condition and treatment of the remains.
<ul style="list-style-type: none"> Cited national funeral profession studies on declining graduation rates and trend toward graduates leaving the profession within the first five years. Also noted drop in the number of funeral homes nationwide and Virginia. Additionally noted Funeral Service Foundation survey of 18-29 year olds that revealed approximately 67% of males and 60% of females would consider a course in funeral services or joining the profession if embalming training was not required. 	<ul style="list-style-type: none"> Noted reduction in funeral homes may be attributable to larger corporations buying funeral homes and consolidating services. Further noted that by providing an "easier route" (without embalming), it may result in a future shortage of FSLs.

PRO (continued)	CON (continued)
<ul style="list-style-type: none"> Reported that cremation is on the rise, currently in about 30-50% of cases each year in Virginia. Held that this reduces the need for embalming and that greater regulatory flexibility would permit funeral homes to redirect resources to meet growing consumer demands in other areas. 	<ul style="list-style-type: none"> Countered that embalming is used in approximately 50-70% of funerals in Virginia, especially those involving public viewing. Noted that clinical training extends beyond the embalming process to include pre-embalming examination for positive identification and detection of potential abuse.
<ul style="list-style-type: none"> Expressed concern over ecological and health impact of embalming chemicals. 	<ul style="list-style-type: none"> Countered that adherence to laboratory safety requirements avoids these issues.
<ul style="list-style-type: none"> Responded to the need for new curriculum approval by stating that it had been accomplished in other states with funeral director, only, licensure. 	<ul style="list-style-type: none"> Noted that original legislative draft from 2014 used the term "funeral service counselor." Several commenters and members of the Board had issue with the term used alone or in combination with other title because of its potential confusion with the Board of Counseling's Licensed Professional Counselor and Substance Abuse Counselor licenses and, therefore, imply comparable behavioral health expertise. Reported that the proposed curriculum in the original legislative draft would eliminate the laboratory component and could not be instituted without undergoing a new approval process through the individual community college, Virginia Community College System, State Council on Higher Education in Virginia, and accreditation through the American Board of Funeral Service Education. Approval would be contingent upon substantiation of financial aid receipt for students and assessments of student success. Noted the entire process could be two years or more.
NO POSITION	
<ul style="list-style-type: none"> Acknowledged the even split in opinion within the funeral service community and noted concerns on both sides of the issue Recommended that the Department of Health Professions Healthcare Workforce Data Center (DHP HWDC) institute a survey on behalf of the Board of Funeral Directors and Embalmers so that objective workforce data can be obtained and tracked. 	

With careful consideration of these findings, the Board concluded that there is insufficient empirically-based information and too evenly divided subjective viewpoints to substantiate their recommendation for or against a new license type. The Board's policy recommendations concerning the appropriate regulation of health professions rely heavily upon their standard evaluative methodology described in Attachment 3 *Policies and Procedures for the Evaluation of the Need to regulate Health Occupations and Professions*.⁴ In this case, the profession in question is already regulated by the Board of Funeral Directors and Embalmers for the public's protection either as a Funeral Director under grandfathering or subsumed under the unified Funeral Service License. Due to the tremendous variation in licensure schemes across the country and lack of consistently comparable disciplinary data, it is not possible to objectively determine whether the regulatory practices in other states are superior or inferior to Virginia's.

One of the chief points of contention is the perception that there is an insufficient number or distribution of Funeral Service Licensees in Virginia's workforce. Existing employment and licensure data, alone, cannot fully address this issue or whether the current embalming competency requirements unduly restrict the supply of practitioners. What is needed is objective data on the actual funeral practitioner workforce in Virginia.

As referenced in public comment, the DHP HWDC works to improve the data collection and measurement of the Commonwealth's healthcare workforce through regular assessment of workforce supply and demand issues among the multiple professions and over 370,000 practitioners licensed in Virginia through the Department. DHP HWDC surveys systematically glean key workforce-related data that detail the demographics, education, geographic distribution, full-time equivalencies, and other key variables to describe the licensees practicing in Virginia and their work settings. At the BHP's request, DHP HWDC staff is currently coordinating with the Board of Funeral Directors and Embalmers to develop and launch a new survey for renewing licensees. As with all DHP HWDC research, the results will be presented to the Board and published by the Department. Once instituted, the survey is administered with each year's renewals and will provide an ongoing, objective means to inform on the current funeral workforce environment and track trends over time.⁵

The Department of Health Professions remains available as a resource with regard to this important workforce issues and to offer technical assistance in the preparation of legislative language if so desired.

Very Truly Yours,



David E. Brown, D.C.
Director

⁴ Also available online through http://www.dhp.virginia.gov/bhp/bhp_guidelines.htm) as Guidance Document, **75-2 Appropriate Criteria in Determining the Need for Regulation of Any Health Care Occupation or Professions, revised February 1998.**

⁵ For more details on the methodology and research, to date, see the Center's website at <http://www.dhp.virginia.gov/hwdc/default.htm>.