



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

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October 14, 2016

The Honorable Robert D. Orrock, Sr.
General Assembly Building, Room 701
Capitol Square
Richmond, Virginia 23219

RE: Assessment of Chiropractor Competency to Perform Commercial Driver's License
Physicals

Dear Delegate Orrock:

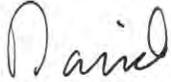
In response to your attached letter of February 4, 2016, the Board of Health Professions conducted an extensive review. It evaluated current and past chiropractic education, training and testing required for licensure by the states. It reviewed the U.S. Department of Transportation's Federal Motor Carrier Administration (FMCSA) medical examiner certification training and testing requirements mandated for all state-approved professions (i.e., physicians, physician assistants, advanced practice nurses/nurse practitioners, and chiropractors). The Board further explored each component of the commercial driver's license physicals (CDL) and the National Highway Traffic Safety Administration's role delineation study underlying the FMCSA's specific knowledge, skills, and abilities requirements. Forty-seven states approve chiropractors for this role, and there is no known evidence of harm attributable to chiropractor performed CDLs. FMCSA physicals are designed as screenings, not comprehensive diagnostics, and must be conducted according to the same national standards and same expectations for appropriate referral regardless of the medical examiner's profession.

The Board of Health Professions unanimously concluded that chiropractors licensed by the Virginia Board of Medicine who successfully complete the Federal Motor Carrier Safety Administration Medical Examiner training and testing do have the requisite education and training to perform CDL physicals. The Board further affirms that health care providers should be allowed to practice to the highest level of their education and training and that Virginia's chiropractor scope of practice statutory language is dated and does not reflect current

circumstances. The General Assembly may wish to consider a comprehensive scope of practice update to avoid single-issue amendments in the future.

Dr. Elizabeth Carter remains available for any questions you may have concerning the Board's findings. She may be reached at Elizabeth.Carter@dhp.virginia.gov or (804)367-4426.

Very truly yours,

A handwritten signature in cursive script that reads "David".

David E. Brown, D.C.

Director



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

ROBERT D. "BOBBY" ORROCK
POST OFFICE BOX 458
THORNBURG, VIRGINIA 22565
FIFTY-FOURTH DISTRICT

COMMITTEE ASSIGNMENTS:
HEALTH, WELFARE AND INSTITUTIONS (CHAIRMAN)
FINANCE
AGRICULTURE, CHESAPEAKE 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

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 22986
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

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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.

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HB1098

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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

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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.

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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.

ENGROSSED

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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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	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 				



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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 				



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	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				



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	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