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HOUSE BILL NO. 1134

Offered January 13, 2014

A *BILL to amend and reenact §§ 8.01-581.1 and 54.1-2952 of the Code of Virginia, relating to practice of physician assistants.*

 Patron—O'Bannon

 Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That §§ 8.01-581.1 and 54.1-2952 of the Code of Virginia are amended and reenacted as follows:****§ 8.01-581.1. Definitions.**

As used in this chapter:

"Health care" means any act, professional services in nursing homes, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical diagnosis, care, treatment or confinement.

"Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered nurse or licensed practical nurse or a person who holds a multistate privilege to practice such nursing under the Nurse Licensure Compact, optometrist, podiatrist, *physician assistant*, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, clinical social worker, professional counselor, licensed marriage and family therapist, licensed dental hygienist, health maintenance organization, or emergency medical care attendant or technician who provides services on a fee basis; (ii) a professional corporation, all of whose shareholders or members are so licensed; (iii) a partnership, all of whose partners are so licensed; (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination; (v) a professional limited liability company comprised of members as described in subdivision A 2 of § 13.1-1102; (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services; or (vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced herein, acting within the course and scope of his employment or engagement as related to health care or professional services.

"Health maintenance organization" means any person licensed pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 who undertakes to provide or arrange for one or more health care plans.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Impartial attorney" means an attorney who has not represented (i) the claimant, his family, his partners, co-proprietors or his other business interests; or (ii) the health care provider, his family, his partners, co-proprietors or his other business interests.

"Impartial health care provider" means a health care provider who (i) has not examined, treated or been consulted regarding the claimant or his family; (ii) does not anticipate examining, treating, or being consulted regarding the claimant or his family; or (iii) has not been an employee, partner or co-proprietor of the health care provider against whom the claim is asserted.

"Malpractice" means any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient.

"Patient" means any natural person who receives or should have received health care from a licensed health care provider except those persons who are given health care in an emergency situation which exempts the health care provider from liability for his emergency services in accordance with § 8.01-225 or 44-146.23.

"Physician" means a person licensed to practice medicine or osteopathy in this Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Professional services in nursing homes" means services provided in a nursing home, as that term is defined in clause (iv) of the definition of health care provider in this section, by a health care provider related to health care, staffing to provide patient care, psycho-social services, personal hygiene, hydration, nutrition, fall assessments or interventions, patient monitoring, prevention and treatment of medical conditions, diagnosis or therapy.

§ 54.1-2952. Supervision of assistants by licensed physician, or podiatrist; services that may be

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HB1134

59 performed by assistants; responsibility of licensee; employment of assistants.

60 A. A physician or a podiatrist licensed under this chapter may apply to the Board to supervise
61 assistants and delegate certain acts which constitute the practice of medicine to the extent and in the
62 manner authorized by the Board. The physician shall provide continuous supervision as required by this
63 section; however, the requirement for physician supervision of assistants shall not be construed as
64 requiring the physical presence of the supervising physician during all times and places of service
65 delivery by assistants. Each team of supervising physician and physician assistant shall identify the
66 relevant physician assistant's scope of practice, including, but not limited to, the delegation of medical
67 tasks as appropriate to the physician assistant's level of competence, the physician assistant's relationship
68 with and access to the supervising physician, and an evaluation process for the physician assistant's
69 performance.

70 No licensee shall be allowed to supervise more than six assistants at any one time.

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

74 Activities shall be delegated in a manner consistent with sound medical practice and the protection of
75 the health and safety of the patient. Such activities shall be set forth in a written practice supervision
76 agreement between the assistant and the supervising health care provider and may include health care
77 services which are educational, diagnostic, therapeutic, preventive, or include treatment, but shall not
78 include the establishment of a final diagnosis or treatment plan for the patient unless set forth in the
79 written practice supervision agreement. Prescribing or dispensing of drugs may be permitted as provided
80 in § 54.1-2952.1. In addition, a licensee is authorized to delegate and supervise initial and ongoing
81 evaluation and treatment of any patient in a hospital, including its emergency department, when
82 performed under the direction, supervision and control of the supervising licensee. When practicing in a
83 hospital, the assistant shall report any acute or significant finding or change in a patient's clinical status
84 to the supervising physician as soon as circumstances require, and shall record such finding in
85 appropriate institutional records. The assistant shall transfer to a supervising physician the direction of
86 care of a patient in an emergency department who has a life-threatening injury or illness. The
87 supervising physician shall review, prior to the patient's discharge, the services rendered to each patient
88 by a physician assistant in a hospital's emergency department. An assistant who is employed to practice
89 in an emergency department shall be under the supervision of a physician present within the facility.

90 Further, unless otherwise prohibited by federal law or by hospital bylaws, rules, or policies, nothing
91 in this section shall prohibit any physician assistant who is not employed by the emergency physician or
92 his professional entity from practicing in a hospital emergency department, within the scope of his
93 practice, while under continuous physician supervision as required by this section, whether or not the
94 supervising physician is physically present in the facility. The supervising physician who authorizes such
95 practice by his assistant shall (i) retain exclusive supervisory control of and responsibility for the
96 assistant and (ii) be available at all times for consultation with both the assistant and the emergency
97 department physician. Prior to the patient's discharge from the emergency department, the assistant shall
98 communicate the proposed disposition plan for any patient under his care to both his supervising
99 physician and the emergency department physician. No person shall have control of or supervisory
100 responsibility for any physician assistant who is not employed by the person or the person's business
101 entity.

102 B. No assistant shall perform any delegated acts except at the direction of the licensee and under his
103 supervision and control. No physician assistant practicing in a hospital shall render care to a patient
104 unless the physician responsible for that patient has signed the ~~protocol~~ *practice agreement*, pursuant to
105 regulations of the Board, to act as supervising physician for that assistant. Every licensee, professional
106 corporation or partnership of licensees, hospital or commercial enterprise that employs an assistant shall
107 be fully responsible for the acts of the assistant in the care and treatment of human beings.

108 C. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is
109 working under the supervision of a licensed doctor of medicine or osteopathy specializing in the field of
110 radiology, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic
111 technology procedures consistent with Board regulations, and (iii) has successfully completed the exam
112 administered by the American Registry of Radiologic Technologists for physician assistants for the
113 purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic
114 and therapeutic procedures.