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SENATE BILL NO. 264

Offered January 13, 2016

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A BILL to amend and reenact §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia, relating to nurse practitioners; practicing outside of a patient care team.

Patrons—Dance and Suetterlein

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957. Licensure and practice of nurse practitioners; practice agreements.

A. As used in this section:

"Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

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

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It shall be unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

~~B.~~ C. Except as provided in subsection G, a nurse practitioner shall only practice as part of a patient care team. Each member of a patient care team shall have specific responsibilities related to the care of the patient or patients and shall provide health care services within the scope of his usual professional activities. Nurse practitioners practicing as part of a patient care team shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. Nurse practitioners who are certified registered nurse anesthetists shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. Nurse practitioners appointed as medical examiners pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16. Practice of patient care teams in all settings shall include the periodic review of patient charts or electronic health records and may include visits to the site where health care is delivered in the manner and at the frequency determined by the patient care team.

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

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

~~C.~~ D. The Board of Medicine and the Board of Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include a provision for appropriate physician input in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

~~D.~~ E. The Boards may issue a license by endorsement to an applicant to practice as a nurse

59 practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and,
60 in the opinion of the Boards, the applicant meets the qualifications for licensure required of nurse
61 practitioners in the Commonwealth.

62 E. F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant
63 temporary licensure to nurse practitioners.

64 F. As used in this section:

65 "Collaboration" means the communication and decision-making process among members of a patient
66 care team related to the treatment and care of a patient and includes (i) communication of data and
67 information about the treatment and care of a patient, including exchange of clinical observations and
68 assessments; and (ii) development of an appropriate plan of care, including decisions regarding the
69 health care provided, accessing and assessment of appropriate additional resources or expertise, and
70 arrangement of appropriate referrals, testing, or studies.

71 "Consultation" means the communicating of data and information, exchanging of clinical observations
72 and assessments, accessing and assessing of additional resources and expertise, problem-solving, and
73 arranging for referrals, testing, or studies.

74 G. A nurse practitioner with at least 2,000 hours of postlicensure experience may practice without
75 the requirement for collaboration and consultation with a patient care team physician as part of a
76 patient care team or a written or electronic practice agreement between the licensed nurse practitioner
77 and a licensed physician in any clinic that is (i) organized in whole or in part for the delivery of health
78 care services without charge or (ii) organized for the delivery of primary health care services for the
79 indigent and uninsured and is (a) designated by the Centers for Medicare & Medicaid Services as a
80 federally qualified health center or (b) located in a medically underserved area of the state as
81 determined by the Virginia Department of Health.

82 **§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse**
83 **practitioners.**

84 A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33
85 (§ 54.1-3300 et seq.), a licensed nurse practitioner, other than a certified registered nurse anesthetist,
86 shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices
87 as set forth in Chapter 34 (§ 54.1-3400 et seq.). Nurse practitioners shall have such prescriptive authority
88 upon the provision to the Board of Medicine and the Board of Nursing of such evidence as they may
89 jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a
90 party to a written or electronic practice agreement with a patient care team physician that clearly states
91 the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall
92 include the controlled substances the nurse practitioner is or is not authorized to prescribe and may
93 restrict such prescriptive authority as described in the practice agreement. Evidence of a practice
94 agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements
95 authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section
96 shall either be signed by the patient care team physician who is practicing as part of a patient care team
97 with the nurse practitioner or shall clearly state the name of the patient care team physician who has
98 entered into the practice agreement with the nurse practitioner.

99 B. It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant
100 to this section unless such prescription is authorized by the written or electronic practice agreement.

101 C. The Board of Nursing and the Board of Medicine shall promulgate such regulations governing the
102 prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an
103 appropriate standard of care for patients.

104 Regulations promulgated pursuant to this section shall include, at a minimum, such requirements as
105 may be necessary to ensure continued nurse practitioner competency, which may include continuing
106 education, testing, or any other requirement, and shall address the need to promote ethical practice, an
107 appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate
108 communication with patients.

109 D. This section shall not limit the functions and procedures of certified registered nurse anesthetists
110 or of any nurse practitioners which are otherwise authorized by law or regulation.

111 E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and
112 devices pursuant to this section:

113 1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed
114 nurse practitioner. Any member of a patient care team shall disclose, upon request of a patient or his
115 legal representative, the name of the patient care team physician and information regarding how to
116 contact the patient care team physician.

117 2. Physicians shall not serve as a patient care team physician on a patient care team at any one time
118 to more than six nurse practitioners.

119 F. This section shall not prohibit a licensed nurse practitioner from administering controlled
120 substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and

121 dispensing manufacturers' professional samples of controlled substances in compliance with the
122 provisions of this section.

123 G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
124 by the Boards of Nursing and Medicine in the category of certified nurse midwife and holding a license
125 for prescriptive authority may prescribe Schedules II through VI controlled substances without the
126 requirement for collaboration and consultation with a patient care team physician as part of a patient
127 care team pursuant to § 54.1-2957 or a written or electronic practice agreement between the licensed
128 nurse practitioner and a licensed physician while participating in a pilot program approved by the Board
129 of Health pursuant to § 32.1-11.5.

130 *H. A nurse practitioner practicing without the requirement for collaboration and consultation with a*
131 *patient care team physician as part of a patient care team or a written or electronic practice agreement*
132 *between the licensed nurse practitioner and a licensed physician pursuant to subsection G of*
133 *§ 54.1-2957 shall have the authority to prescribe, without a practice agreement with a patient care team*
134 *physician, Schedule II through Schedule VI controlled substances and devices if he meets all other*
135 *requirements for prescriptive authority in this section or as otherwise required by the Board of Medicine*
136 *and Board of Nursing.*