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HOUSE BILL NO. 5057

Offered August 18, 2020

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A *BILL to amend and reenact §§ 32.1-111.5, 54.1-2927, 54.1-2951.1 and 54.1-2957 of the Code of Virginia, relating to certain health care providers; licensure or certification by endorsement.*

Patron—Freitas

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-111.5, 54.1-2927, 54.1-2951.1 and 54.1-2957 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-111.5. Certification and recertification of emergency medical services providers; certification by endorsement; appeals process.

A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical services providers, including those qualifications necessary for authorization to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1. Such regulations shall include criteria for determining whether an applicant's relevant practical experience and didactic and clinical components of education and training completed during his service as a member of any branch of the armed forces of the United States may be accepted by the Commissioner as evidence of satisfaction of the requirements for certification.

B. Each person desiring certification as an emergency medical services provider shall apply to the Commissioner upon a form prescribed by the Board. Upon receipt of such application, the Commissioner shall cause the applicant to be examined or otherwise determined to be qualified for certification. When determining whether an applicant is qualified for certification, the Commissioner shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant during his service as a member of any branch of the armed forces of the United States as evidence of satisfaction of the requirements for certification. If the Commissioner determines that the applicant meets the requirements for certification as an emergency medical services provider, he shall issue a certificate to the applicant. An emergency medical services provider certificate so issued shall be valid for a period required by law or prescribed by the Board. Any certificate so issued may be suspended at any time that the Commissioner determines that the holder no longer meets the qualifications prescribed for such emergency medical services provider. The Commissioner may temporarily suspend any certificate without notice, pending a hearing or informal fact-finding conference, if the Commissioner finds that there is a substantial danger to public health or safety. When the Commissioner has temporarily suspended a certificate pending a hearing, the Commissioner shall seek an expedited hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board shall prescribe by regulation procedures and the qualifications required for the recertification of emergency medical services providers.

D. The Commissioner may issue a temporary certificate when he finds that it is in the public interest. A temporary certificate shall be valid for a period not exceeding 90 days.

E. *The Board shall issue a certification by endorsement to any applicant for certification as an emergency medical services provider who holds a valid, unrestricted licensure or certification as an emergency medical services provider under the laws of another state, the District of Columbia, or a United States possession or territory and, in the opinion of the Board, meets the qualifications necessary for certification as an emergency medical services provider in the Commonwealth.*

F. The Board shall require each person who, on or after July 1, 2013, applies to be a volunteer with or employee of an emergency medical services agency to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation, for the purpose of obtaining his criminal history record information. The Central Criminal Records Exchange shall forward the results of the state and national records search to the Commissioner or his designee, who shall be a governmental entity. If an applicant is denied employment or service as a volunteer because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation.

G. Notwithstanding the provisions of subsection E, an emergency medical services agency located

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59 in a locality having a local ordinance adopted in accordance with §§ 15.2-1503.1 and 19.2-389 shall
60 require an applicant for employment or to serve as a volunteer to submit fingerprints and provide
61 personal descriptive information to be provided directly to the Central Criminal Records Exchange to be
62 forwarded to the Federal Bureau of Investigation for the purpose of obtaining criminal history records
63 information for the applicant. The Central Criminal Records Exchange shall, upon receipt of an
64 applicant's records or notification that no records exists, forward the results of the state and national
65 records search to the county, city or town manager or chief law-enforcement officer for the locality in
66 which the agency is located, or his designee, who shall be associated with a governmental entity. Upon
67 receipt of the results of the state and national criminal history records search, the county, city or town
68 manager or chief law-enforcement officer for the locality, or his designee, shall notify the Office of
69 Emergency Medical Services regarding the applicant's eligibility for employment or to serve as a
70 volunteer. Information provided to the Office of Emergency Medical Services shall be limited to
71 notification as to whether the applicant is eligible for employment or to serve as a volunteer in
72 accordance with requirements related to disqualifying offenses set forth in regulations of the Board and
73 shall not include information regarding whether the applicant has been found ineligible for employment
74 or to serve as a volunteer due to additional exclusionary criteria established by the locality. Whenever
75 fingerprints are submitted to both authorities and it is deemed feasible and practical by the Central
76 Criminal Records Exchange it shall forward the results of the fingerprint based state and national records
77 search to the county, city or town manager or chief law enforcement officer for the locality in which the
78 agency is located, or his designee, who shall be associated with a governmental entity, and to the Office
79 of Emergency Medical Services.

80 **§ 54.1-2927. Applicants from other states without reciprocity; temporary licenses or certificates**
81 **for certain practitioners of the healing arts.**

82 A. The Board, ~~in its discretion, may shall~~ issue ~~certificates or licenses a license or certificate~~ by
83 ~~endorsement to applicants an applicant who holds a valid, unrestricted license or certificate under the~~
84 ~~laws of another state, the District of Columbia, or a United States territory or possession with which the~~
85 ~~Commonwealth has not established a reciprocal relationship upon endorsement by boards the~~
86 ~~appropriate board or other appropriate authorities authority of such other states or territories or, the~~
87 ~~District of Columbia with which reciprocal relations have not been established if, or United States~~
88 ~~territory or possession and a determination by the Board that the applicant's credentials of such~~
89 ~~applicants are satisfactory to the Board and the examinations and passing grades required by such other~~
90 ~~boards board or authority are fully equal to those required by the Virginia Board.~~

91 B. The Board may issue certificates or licenses to applicants holding certificates from the national
92 boards of their respective branches of the healing arts if their credentials, schools of graduation and
93 national board examinations and results are acceptable to the Board. The Board shall promulgate
94 regulations in order to carry out the provisions of this section.

95 C. The Board of Medicine shall prioritize applicants for licensure as a doctor of medicine or
96 osteopathic medicine, a physician assistant, or a nurse practitioner from such states that are contiguous
97 with the Commonwealth in processing their applications for licensure by endorsement through a
98 streamlined process, with a final determination regarding qualification to be made within 20 days of the
99 receipt of a completed application.

100 ~~B. D.~~ The Board may issue authorization to practice valid for a period not to exceed three months to
101 a practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory
102 agency in the state, District of Columbia, or Canada where the practitioner resides when the practitioner
103 is in Virginia temporarily to practice the healing arts (i) in a summer camp or in conjunction with
104 patients who are participating in recreational activities, (ii) in continuing education programs, or (iii) by
105 rendering at any site any health care services within the limits of his license or certificate, voluntarily
106 and without compensation, to any patient of any clinic that is organized in whole or in part for the
107 delivery of health care services without charge as provided in § 54.1-106. A fee not to exceed \$25 may
108 be charged by the Board for the issuance of authorization to practice pursuant to the provisions of this
109 subsection.

110 **§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant; licensure by**
111 **endorsement.**

112 A. The Board shall promulgate regulations establishing requirements for licensure as a physician
113 assistant that shall include the following:

114 1. Successful completion of a physician assistant program or surgical physician assistant program
115 accredited by the Accreditation Review Commission on Education for the Physician Assistant;

116 2. Passage of the certifying examination administered by the National Commission on Certification of
117 Physician Assistants; and

118 3. Documentation that the applicant for licensure has not had his license or certification as a
119 physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in
120 another jurisdiction.

B. The Board may issue a license by endorsement to an applicant for licensure as a physician assistant if the applicant (i) is the spouse of an active duty member of the Armed Forces of the United States or the Commonwealth, (ii) holds current certification from the National Commission on Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good standing, or that is eligible for reinstatement if lapsed, under the laws of another state.

C. Every physician assistant shall practice as part of a patient care team and shall enter into a written or electronic practice agreement with at least one patient care team physician or patient care team podiatrist.

A practice agreement shall include acts pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for collaboration and consultation among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.

A practice agreement may include provisions for periodic site visits by a patient care team physician or patient care team podiatrist who is part of the patient care team at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by a patient care team physician or patient care team podiatrist who is part of the patient care team.

D. C. Evidence of a practice agreement shall be maintained by the physician assistant and provided to the Board upon request. The practice agreement may be maintained in writing or electronically, and may be a part of credentialing documents, practice protocols, or procedures.

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

A. As used in this section:

"Clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

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

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse anesthetists shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner 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.

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.

D. The Boards of Medicine and 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 provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers 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.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws

182 of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for
183 licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is
184 issued by endorsement may practice without a practice agreement with a patient care team physician
185 pursuant to subsection I if such application provides an attestation to the Boards that the applicant has
186 completed the equivalent of at least five years of full-time clinical experience, as determined by the
187 Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

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

190 G. In the event a physician who is serving as a patient care team physician dies, becomes disabled,
191 retires from active practice, surrenders his license or has it suspended or revoked by the Board, or
192 relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter
193 into a new practice agreement with another patient care team physician, the nurse practitioner may
194 continue to practice upon notification to the designee or his alternate of the Boards and receipt of such
195 notification. Such nurse practitioner may continue to treat patients without a patient care team physician
196 for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only
197 those drugs previously authorized by the practice agreement with such physician and to have access to
198 appropriate input from appropriate health care providers in complex clinical cases and patient
199 emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the
200 nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse
201 practitioner provides evidence of efforts made to secure another patient care team physician and of
202 access to physician input.

203 H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified
204 nurse midwife shall practice in consultation with a licensed physician in accordance with a practice
205 agreement between the nurse practitioner and the licensed physician. Such practice agreement shall
206 address the availability of the physician for routine and urgent consultation on patient care. Evidence of
207 a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon
208 request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice
209 of Midwifery set by the American College of Nurse-Midwives, governing such practice.

210 I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and
211 Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has
212 completed the equivalent of at least five years of full-time clinical experience as a licensed nurse
213 practitioner, as determined by the Boards, may practice in the practice category in which he is certified
214 and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of
215 an attestation from the patient care team physician stating (i) that the patient care team physician has
216 served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a
217 practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to
218 such practice agreement, the patient care team physician routinely practiced with a patient population
219 and in a practice area included within the category for which the nurse practitioner was certified and
220 licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse
221 practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards
222 together with a fee established by the Boards. Upon receipt of such attestation and verification that a
223 nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse
224 practitioner a new license that includes a designation indicating that the nurse practitioner is authorized
225 to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the
226 attestation required by this subsection, the Boards may accept other evidence demonstrating that the
227 applicant has met the requirements of this subsection in accordance with regulations adopted by the
228 Boards.

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

235 A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain
236 and maintain coverage by or shall be named insured on a professional liability insurance policy with
237 limits equal to the current limitation on damages set forth in § 8.01-581.15.