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HOUSE BILL NO. 285

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 54.1-2957, as it is currently effective and as it shall become effective, and 54.1-2957.01 of the Code of Virginia, relating to clinical nurse specialist; practice agreement.

Patrons—Adams, D.M., Avoli, Brewer, Convirs-Fowler, Hayes, Jenkins, Kory, McQuinn, Plum, Rasoul and Shin

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957, as it is currently effective and as it shall become effective, and 54.1-2957.01 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957. (Effective until July 1, 2022) 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 certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist 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 certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist 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 of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least two years of full-time clinical experience, as determined by the

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58 Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

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

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

74 H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards
75 and consistent with the Standards for the Practice of Midwifery set by the American College of
76 Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000
77 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two
78 years prior to entering into the practice agreement or a licensed physician, in accordance with a practice
79 agreement. Such practice agreement shall address the availability of the certified nurse midwife who has
80 practiced for at least two years prior to entering into the practice agreement or the licensed physician for
81 routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained
82 by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who
83 has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice
84 agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife
85 who has practiced for at least two years prior to entering into the practice agreement or the licensed
86 physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that
87 such certified nurse midwife or licensed physician has provided consultation to the certified nurse
88 midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of
89 time for which such certified nurse midwife or licensed physician practiced in collaboration and
90 consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse
91 midwife authorized to practice without a practice agreement shall consult and collaborate with and refer
92 patients to such other health care providers as may be appropriate for the care of the patient.

93 I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and
94 Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse
95 specialist, who has completed the equivalent of at least two years of full-time clinical experience as a
96 licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which
97 he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse
98 practitioner of an attestation from the patient care team physician stating (i) that the patient care team
99 physician has served as a patient care team physician on a patient care team with the nurse practitioner
100 pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that
101 while a party to such practice agreement, the patient care team physician routinely practiced with a
102 patient population and in a practice area included within the category for which the nurse practitioner
103 was certified and licensed; and (iii) the period of time for which the patient care team physician
104 practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be
105 submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation
106 and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall
107 issue to the nurse practitioner a new license that includes a designation indicating that the nurse
108 practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner
109 is unable to obtain the attestation required by this subsection, the Boards may accept other evidence
110 demonstrating that the applicant has met the requirements of this subsection in accordance with
111 regulations adopted by the Boards.

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

118 A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain
119 and maintain coverage by or shall be *the* named insured on a professional liability insurance policy with

limits equal to the current limitation on damages set forth in § 8.01-581.15.

J. Nurse practitioners A nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist who does not prescribe controlled substances or devices may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement. Such nurse practitioner shall (i) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult and collaborate with other health care providers based on the clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner licensed by the Boards in the category of clinical nurse specialist who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

§ 54.1-2957. (Effective July 1, 2022) 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 certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist 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 certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist 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 of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the

181 Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

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

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

197 H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards
198 and consistent with the Standards for the Practice of Midwifery set by the American College of
199 Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000
200 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two
201 years prior to entering into the practice agreement or a licensed physician, in accordance with a practice
202 agreement. Such practice agreement shall address the availability of the certified nurse midwife who has
203 practiced for at least two years prior to entering into the practice agreement or the licensed physician for
204 routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained
205 by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who
206 has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice
207 agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife
208 who has practiced for at least two years prior to entering into the practice agreement or the licensed
209 physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that
210 such certified nurse midwife or licensed physician has provided consultation to the certified nurse
211 midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of
212 time for which such certified nurse midwife or licensed physician practiced in collaboration and
213 consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse
214 midwife authorized to practice without a practice agreement shall consult and collaborate with and refer
215 patients to such other health care providers as may be appropriate for the care of the patient.

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

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

241 A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain
242 and maintain coverage by or shall be *the* named insured on a professional liability insurance policy with

limits equal to the current limitation on damages set forth in § 8.01-581.15.

J. ~~Nurse practitioners~~ *A nurse practitioner* licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist *who does not prescribe controlled substances or devices may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement. Such nurse practitioner shall (i) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult and collaborate with other health care providers based on the clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.*

A nurse practitioner licensed by the Boards in the category of clinical nurse specialist who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

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

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. A nurse practitioner who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the nurse practitioner and a patient care team physician *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the nurse practitioner and a licensed physician.* Such nurse practitioner shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician,* that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician,* or shall clearly state the name of the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician,* who has entered into the practice agreement with the nurse practitioner.

It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

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

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

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician,* and information regarding how to contact the patient care team physician *or licensed physician.*

304 2. Physicians shall not serve as a patient care team physician on a patient care team at any one time
305 ~~to~~ or enter into a practice agreement with more than six nurse practitioners at any one time.

306 F. This section shall not prohibit a licensed nurse practitioner from administering controlled
307 substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and
308 dispensing manufacturers' professional samples of controlled substances in compliance with the
309 provisions of this section.

310 G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
311 by the Boards of Medicine and Nursing in the category of certified nurse midwife ~~or clinical nurse~~
312 ~~specialist~~ and holding a license for prescriptive authority may prescribe Schedules II through VI
313 controlled substances. However, if the nurse practitioner licensed by the Boards of Medicine and
314 Nursing in the category of certified nurse midwife ~~or clinical nurse specialist~~ is required, pursuant to
315 subsection H ~~or J~~ of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall
316 also be in accordance with any prescriptive authority included in such practice agreement.

317 H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
318 by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority
319 to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the
320 requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as
321 part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the
322 period beginning prior to a procedure and ending at the time the patient is discharged.