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HOUSE BILL NO. 896

Offered January 12, 2022

Prefiled January 12, 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 nurse practitioners; patient care team providers.

Patron—Adams, D.M.

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 is 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:

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

"Patient care team provider" means a patient care team physician, as defined in § 54.-2900, or a nurse practitioner who meets the requirements of subsection I and is authorized to practice without a practice agreement.

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~~ provider. 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~~ providers 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~~ patient care team providers 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~~ provider 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~~ provider.

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

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59 licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is
60 issued by endorsement may practice without a practice agreement with a patient care team ~~physician~~
61 *provider* pursuant to subsection I if such application provides an attestation to the Boards that the
62 applicant has completed the equivalent of at least two years of full-time clinical experience, as
63 determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was
64 licensed.

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

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

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

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

119 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection
120 shall (a) 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, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be 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 licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist 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:

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

"Patient care team provider" means a patient care team physician, as defined in § 54.-2900, or a nurse practitioner who meets the requirements of subsection I and is authorized to practice without a practice agreement.

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 provider. 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 providers 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 patient care team providers 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 provider 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 provider.

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

182 *provider* pursuant to subsection I if such application provides an attestation to the Boards that the
183 applicant has completed the equivalent of at least five years of full-time clinical experience, as
184 determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was
185 licensed.

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

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

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

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

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

to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be 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 licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist 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. As used in this section, "patient care team provider" shall have the same meaning as set forth in § 54.1-2957.

B. 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.~~ C. 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~~ provider. 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~~ provider 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~~ provider or shall clearly state the name of the patient care team ~~physician~~ provider 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. D. 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.~~ E. 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.~~ F. 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~~ provider and information regarding how to contact the patient care team ~~physician~~ provider.

2. ~~Physicians~~ No patient care team provider shall not serve as a patient care team ~~physician~~ provider on a patient care team at any one time to more than six nurse practitioners.

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

~~G.~~ H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or clinical nurse specialist and holding a license for prescriptive authority may prescribe Schedules II through VI controlled substances. However, if the nurse practitioner licensed by the Boards of Medicine and

305 Nursing in the category of certified nurse midwife or clinical nurse specialist is required, pursuant to
306 subsection H or J of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall
307 also be in accordance with any prescriptive authority included in such practice agreement.
308 ~~H. I.~~ Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
309 by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority
310 to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the
311 requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as
312 part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the
313 period beginning prior to a procedure and ending at the time the patient is discharged.