

23100577D

## HOUSE BILL NO. 2183

Offered January 11, 2023

Prefiled January 11, 2023

*A BILL to amend and reenact §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia, relating to nurse practitioners; practice authority upon licensure.*

\_\_\_\_\_  
Patron—Robinson

\_\_\_\_\_  
Referred to Committee on Health, Welfare and Institutions

**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.**

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. B. A certified nurse midwife shall practice pursuant to subsection H G. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J I. 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. C. 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 in accordance with subsections G and I 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. D. 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 Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

INTRODUCED

HB2183

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

61 G. F. In the event *that* a physician who is serving as a patient care team physician dies, becomes  
62 disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board,  
63 or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to  
64 enter 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. G. Every certified nurse midwife shall practice in accordance with regulations adopted by the  
75 Boards 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. H. 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 as described in subsections G and I~~, who has completed the equivalent of at least five years of  
96 ~~full-time clinical experience as a licensed nurse practitioner~~, as determined by the Boards, may practice  
97 in the practice category in which he is certified and licensed without a written or electronic practice  
98 agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician  
99 stating (i) that the patient care team physician has served as a patient care team physician on a patient  
100 care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this  
101 section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team  
102 physician routinely practiced with a patient population and in a practice area included within the  
103 category for which the nurse practitioner was certified and licensed; and (iii) the period of time for  
104 which the patient care team physician practiced with the nurse practitioner under such a practice  
105 agreement. A copy of such attestation shall be submitted to the Boards together with a fee established  
106 by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the  
107 requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that  
108 includes a designation indicating that the nurse practitioner is authorized to practice without a practice  
109 agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this  
110 subsection, the Boards may accept other evidence demonstrating that the applicant has met the  
111 requirements of this subsection in accordance with regulations adopted by the Boards.

112 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection  
113 shall (a) (i) 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) (ii) 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) (iii) establish a plan for referral of complex medical cases and  
117 emergencies to physicians or other appropriate health care providers.

118 J. I. A nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical  
119 nurse specialist who does not prescribe controlled substances or devices may practice in the practice  
120 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.

2. Physicians shall not serve as a patient care team physician on a patient care team or enter into a practice agreement with more than six nurse practitioners at any one time, except that a physician may serve as a patient care team physician on a patient care team with up to 10 nurse practitioners licensed in the category of psychiatric-mental health nurse practitioner.

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

186 G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed  
187 by the Boards of Medicine and Nursing in the category of certified nurse midwife and holding a license  
188 for prescriptive authority may prescribe Schedules II through VI controlled substances. However, if the  
189 nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse  
190 midwife is required, pursuant to subsection ~~H~~ G of § 54.1-2957, to practice pursuant to a practice  
191 agreement, such prescribing shall also be in accordance with any prescriptive authority included in such  
192 practice agreement.

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