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SENATE BILL NO. 33

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 25, 2024)

(Patron Prior to Substitute—Senator Locke)

A *BILL to amend and reenact § 54.1-2957 of the Code of Virginia, relating to supervision of certified registered nurse anesthetists; work group; report.*

Be it enacted by the General Assembly of Virginia:

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

§ 54.1-2957. Licensure and practice of advanced practice registered nurses.

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 advanced practice registered nurses. It is unlawful for a person to practice as an advanced practice registered nurse in the Commonwealth unless he holds such a joint license.

C. Every 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 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. *"Supervision" for the purpose of this subsection means that the licensed doctor of medicine, osteopathy, podiatry, or dentistry is present during an operation or procedure or is immediately available to respond and provide patient care as needed.* An advanced practice registered nurse 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 advanced practice registered nurses 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 an advanced practice registered nurse 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 advanced practice registered nurses 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 advanced practice registered nurse 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 an advanced practice registered nurse and provided to the Boards upon request. For advanced practice registered nurses providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the advanced practice registered nurse'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 an advanced practice registered nurse if the applicant has been licensed as an advanced practice registered nurse under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of advanced practice registered nurses in the Commonwealth. An advanced practice registered nurse 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.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant

60 temporary licensure to advanced practice registered nurses.

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 an advanced practice registered nurse
64 is unable to enter into a new practice agreement with another patient care team physician, the advanced
65 practice registered nurse may continue to practice upon notification to the designee or his alternate of
66 the Boards and receipt of such notification. Such advanced practice registered nurse may continue to
67 treat patients without a patient care team physician for an initial period not to exceed 60 days, provided
68 that the advanced practice registered nurse continues to prescribe only those drugs previously authorized
69 by the practice agreement with such physician and to have access to appropriate input from appropriate
70 health care providers in complex clinical cases and patient emergencies and for referrals. The designee
71 or his alternate of the Boards shall grant permission for the advanced practice registered nurse to
72 continue practice under this subsection for another 60 days, provided that the advanced practice
73 registered nurse provides evidence of efforts made to secure another patient care team physician and of
74 access to physician input.

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

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

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

117 J. A clinical nurse specialist licensed by the Boards of Medicine and Nursing who does not prescribe
118 controlled substances or devices may practice in the practice category in which he is certified and
119 licensed without a written or electronic practice agreement. Such clinical nurse specialist shall (i) only
120 practice within the scope of his clinical and professional training and limits of his knowledge and
121 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 clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the clinical nurse specialist 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 clinical nurse specialist 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.

2. That the Secretary of Health and Human Resources, in collaboration with the Board of Medicine, the Board of Nursing, and the Department of Health Professions, shall convene a work group to evaluate and make recommendations to increase the anesthesia provider workforce in the Commonwealth, including an assessment of (i) the factors limiting the current and future numbers of physician anesthesiologists and certified registered nurse anesthetists, (ii) the projected impact of licensing anesthesiology assistants who are currently in the anesthesia provider workforce in the Commonwealth, (iii) how potential changes to the current law regarding the practice of certified registered nurse anesthetists will impact patients in historically economically disadvantaged communities and underserved areas of Virginia, and (iv) whether potential changes to the law will increase or decrease health disparities. The work group shall include representatives from the Virginia Society of Anesthesiologists, the Virginia Association of Nurse Anesthetists, the Virginia Hospital and Healthcare Association, the Virginia Academy of Anesthesiologist Assistants, and other relevant stakeholders. The work group shall report its recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health and Human Services by November 1, 2024.