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SENATE BILL NO. 369

Offered January 13, 2016

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A *BILL to amend and reenact §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia, relating to nurse practitioners; practicing outside of a patient care team.*

Patrons—Stanley; Delegate: Edmunds

Referred to Committee on Education and Health

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; practice agreements.

A. *As used in this section:*

"Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

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

~~B.~~ C. *Except as provided in subsection G, a nurse practitioner shall only practice as part of a patient care team. Each member of a patient care team shall have specific responsibilities related to the care of the patient or patients and shall provide health care services within the scope of his usual professional activities. Nurse practitioners practicing as part of a patient care team shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. Nurse practitioners who are certified registered nurse anesthetists shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. Nurse practitioners appointed as medical examiners 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. Practice of patient care teams in all settings shall include the periodic review of patient charts or electronic health records and may include visits to the site where health care is delivered in the manner and at the frequency determined by the patient care team.*

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.

~~C.~~ D. The Board of Medicine and the Board of 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 a provision for appropriate physician input 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.

~~D.~~ E. The Boards may issue a license by endorsement to an applicant to practice as a nurse

59 practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and,
60 in the opinion of the Boards, the applicant meets the qualifications for licensure required of nurse
61 practitioners in the Commonwealth.

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

64 F. As used in this section:

65 "Collaboration" means the communication and decision-making process among members of a patient
66 care team related to the treatment and care of a patient and includes (i) communication of data and
67 information about the treatment and care of a patient, including exchange of clinical observations and
68 assessments; and (ii) development of an appropriate plan of care, including decisions regarding the
69 health care provided, accessing and assessment of appropriate additional resources or expertise, and
70 arrangement of appropriate referrals, testing, or studies.

71 "Consultation" means the communicating of data and information, exchanging of clinical observations
72 and assessments, accessing and assessing of additional resources and expertise, problem-solving, and
73 arranging for referrals, testing, or studies.

74 G. A nurse practitioner may practice without the requirement for collaboration and consultation with
75 a patient care team physician as part of a patient care team or a written or electronic practice
76 agreement between the licensed nurse practitioner and a licensed physician in any clinic that is located
77 in a medically underserved area of the state as determined by the Virginia Department of Health or an
78 area of the state that has an unemployment rate of one and one-half times the statewide average
79 unemployment rate.

80 **§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse**
81 **practitioners.**

82 A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33
83 (§ 54.1-3300 et seq.), a licensed nurse practitioner, other than a certified registered nurse anesthetist,
84 shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices
85 as set forth in Chapter 34 (§ 54.1-3400 et seq.). Nurse practitioners shall have such prescriptive authority
86 upon the provision to the Board of Medicine and the Board of Nursing of such evidence as they may
87 jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a
88 party to a written or electronic practice agreement with a patient care team physician that clearly states
89 the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall
90 include the controlled substances the nurse practitioner is or is not authorized to prescribe and may
91 restrict such prescriptive authority as described in the practice agreement. Evidence of a practice
92 agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements
93 authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section
94 shall either be signed by the patient care team physician who is practicing as part of a patient care team
95 with the nurse practitioner or shall clearly state the name of the patient care team physician who has
96 entered into the practice agreement with the nurse practitioner.

97 B. It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant
98 to this section unless such prescription is authorized by the written or electronic practice agreement.

99 C. The Board of Nursing and the Board of Medicine shall promulgate such regulations governing the
100 prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an
101 appropriate standard of care for patients.

102 Regulations promulgated pursuant to this section shall include, at a minimum, such requirements as
103 may be necessary to ensure continued nurse practitioner competency, which may include continuing
104 education, testing, or any other requirement, and shall address the need to promote ethical practice, an
105 appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate
106 communication with patients.

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

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

111 1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed
112 nurse practitioner. Any member of a patient care team shall disclose, upon request of a patient or his
113 legal representative, the name of the patient care team physician and information regarding how to
114 contact the patient care team physician.

115 2. Physicians shall not serve as a patient care team physician on a patient care team at any one time
116 to more than six nurse practitioners.

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

121 G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
122 by the Boards of Nursing and Medicine in the category of certified nurse midwife and holding a license
123 for prescriptive authority may prescribe Schedules II through VI controlled substances without the
124 requirement for collaboration and consultation with a patient care team physician as part of a patient
125 care team pursuant to § 54.1-2957 or a written or electronic practice agreement between the licensed
126 nurse practitioner and a licensed physician while participating in a pilot program approved by the Board
127 of Health pursuant to § 32.1-11.5.

128 *H. A nurse practitioner practicing without the requirement for collaboration and consultation with a*
129 *patient care team physician as part of a patient care team or a written or electronic practice agreement*
130 *between the licensed nurse practitioner pursuant to subsection G of § 54.1-2957 shall have the authority*
131 *to prescribe, without a practice agreement with a patient care team physician, Schedule II through*
132 *Schedule VI controlled substances and devices if he meets all other requirements for prescriptive*
133 *authority in this section or as otherwise required by the Board of Medicine or Board of Nursing.*