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HOUSE BILL NO. 1817

Offered January 13, 2021

Prefiled January 6, 2021

A BILL to amend and reenact §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia, relating to practice of certified nurse midwives.

Patrons—Adams, D.M., Ayala, Batten, Bell, Carter, Cole, M.L., Coyner, Fowler, Freitas, Guzman, Hudson, Hurst, Keam, Kory, LaRock, Levine, Lopez, McQuinn, Murphy, Plum, Rasoul, Robinson, Samirah, Simon, Simonds and Sullivan; Senator: Deeds

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~~, "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 nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist 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 nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse ~~anesthetists~~ *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

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

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

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

75 H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified
76 nurse midwife shall practice in consultation with a licensed physician in accordance with a practice
77 agreement between the nurse practitioner and the licensed physician. Such practice agreement shall
78 address the availability of the physician for routine and urgent consultation on patient care. Evidence of
79 a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon
80 request. The Boards shall jointly promulgate regulations, *accordance with regulations adopted by the*
81 *Boards and consistent with the Standards for the Practice of Midwifery set by the American College of*
82 *Nurse-Midwives, governing such practice, and shall consult and collaborate with and refer patients to*
83 *such other health care providers as may be appropriate for the care of the patient.*

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

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

109 A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain
110 and maintain coverage by or shall be named insured on a professional liability insurance policy with
111 limits equal to the current limitation on damages set forth in § 8.01-581.15.

112 **§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse**
113 **practitioners.**

114 A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33
115 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II
116 through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

117 B. A nurse practitioner who does not meet the requirements for practice without a written or
118 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. 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 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 shall clearly state the name of the patient care team 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 and information regarding how to contact the patient care team physician.

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

F. 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. 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 and holding a license for prescriptive authority may prescribe ~~(i) Schedules II through V VI controlled substances in accordance with any prescriptive authority included in a practice agreement with a licensed physician pursuant to subsection H of § 54.1-2957 and (ii) Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.~~

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