

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Code of Virginia,*  
3 *relating to practice of certified nurse midwives.*

4 [H 1817]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Code of Virginia are amended and**  
8 **reenacted as follows:**9 **§ 54.1-2957. Licensure and practice of nurse practitioners.**

10 A. As used in this section,

11 ~~"Clinical~~ *"clinical* experience" means the postgraduate delivery of health care directly to patients  
12 pursuant to a practice agreement with a patient care team physician.13 B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing  
14 the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the  
15 Commonwealth unless he holds such a joint license.16 C. Every nurse practitioner other than a ~~nurse practitioner licensed by the Boards of Medicine and~~  
17 ~~Nursing~~ as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner  
18 who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as  
19 evidenced in a written or electronic practice agreement, with at least one patient care team physician. A  
20 nurse practitioner who meets the requirements of subsection I may practice without a written or  
21 electronic practice agreement. A ~~nurse practitioner who is licensed by the Boards of Medicine and~~  
22 ~~Nursing~~ as a certified nurse midwife shall practice pursuant to subsection H. A ~~nurse practitioner who is~~  
23 a certified registered nurse ~~anesthetists~~ *anesthetist* shall practice under the supervision of a licensed  
24 doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a  
25 medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of  
26 medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to  
27 § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians  
28 may be provided through telemedicine as described in § 38.2-3418.16.29 Physicians on patient care teams may require that a nurse practitioner be covered by a professional  
30 liability insurance policy with limits equal to the current limitation on damages set forth in  
31 § 8.01-581.15.32 Service on a patient care team by a patient care team member shall not, by the existence of such  
33 service alone, establish or create liability for the actions or inactions of other team members.34 D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration  
35 and consultation among physicians and nurse practitioners working as part of patient care teams that  
36 shall include the development of, and periodic review and revision of, a written or electronic practice  
37 agreement; guidelines for availability and ongoing communications that define consultation among the  
38 collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice  
39 agreements shall include provisions for (i) periodic review of health records, which may include visits to  
40 the site where health care is delivered, in the manner and at the frequency determined by the nurse  
41 practitioner and the patient care team physician and (ii) input from appropriate health care providers in  
42 complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall  
43 be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners  
44 providing care to patients within a hospital or health care system, the practice agreement may be  
45 included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or  
46 written delineation of duties and responsibilities in collaboration and consultation with a patient care  
47 team physician.48 E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to  
49 practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws  
50 of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for  
51 licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is  
52 issued by endorsement may practice without a practice agreement with a patient care team physician  
53 pursuant to subsection I if such application provides an attestation to the Boards that the applicant has  
54 completed the equivalent of at least five years of full-time clinical experience, as determined by the  
55 Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

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

57 temporary licensure to nurse practitioners.

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

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

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

114 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection  
 115 shall (a) only practice within the scope of his clinical and professional training and limits of his  
 116 knowledge and experience and consistent with the applicable standards of care, (b) consult and  
 117 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.

**§ 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. 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 ~~VI~~ controlled substances. *However, if the nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife is required, pursuant to subsection H of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall also be* in accordance with any prescriptive authority included in a such 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.

**§ 54.1-2957.03. Certified nurse midwives; required disclosures; liability.**

A. As used in this section, "birthing center" means a facility outside a hospital that provides maternity services.

B. A certified nurse midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

C. ~~The A~~ A certified nurse midwife who ~~provided~~ *provides* health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) *physician assistant, (iii) nurse practitioner, (iii) (iv) prehospital emergency medical personnel, or (iv) (v)* hospital as defined in § 32.1-123, or ~~agents thereof, who~~ *any employee of, person providing services pursuant to a contract with, or agent of such hospital, that* provides screening and stabilization health care services to a patient as a result of a certified nurse midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from liability for acts or omissions constituting ordinary negligence.

2. That any certified nurse midwife who has practiced as a certified nurse midwife in the Commonwealth for at least 1,000 hours, as determined by the Boards of Medicine and Nursing, prior to the effective date of this act shall be deemed to have met the requirements of subsection H of § 54.1-2957 of the Code of Virginia, as amended by this act, related to requirements for practice as a certified nurse midwife without a practice agreement and shall be eligible to practice as a certified nurse midwife in the Commonwealth without a practice agreement.