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HOUSE BILL NO. 2039

Offered January 13, 2021

Prefiled January 12, 2021

A *BILL to amend and reenact §§ 54.1-2902, 54.1-2950.1, 54.1-2951.1, 54.1-2951.2, 54.1-2952, 54.1-2952.1, 54.1-2953, and 54.1-2972 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2951.4, relating to practice as a physician assistant.*

Patrons—Rasoul, Adams, D.M., Carter, Helmer, Samirah and Simon; Senator: Stanley

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2902, 54.1-2950.1, 54.1-2951.1, 54.1-2951.2, 54.1-2952, 54.1-2952.1, 54.1-2953, and 54.1-2972 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2951.4 as follows:

§ 54.1-2902. Unlawful to practice without license.

It ~~shall be~~ is unlawful for any person to practice medicine, osteopathic medicine, chiropractic, or podiatry, or as a ~~physician's or podiatrist's~~ physician assistant in the Commonwealth without a valid unrevoked license issued by the Board of Medicine.

§ 54.1-2950.1. Advisory Board on Physician Assistants; membership; qualifications.

The Advisory Board on Physician Assistants shall consist of five members to be appointed by the Governor as follows: three members shall be licensed physician assistants who have practiced their professions in Virginia for not less than three years prior to their appointments; one shall be a physician who ~~supervises~~ *collaborates with* at least one physician assistant; and one shall be a citizen member appointed from the Commonwealth ~~at-large~~ *at large*. ~~Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, one member for a term of two years, and two members for a term of three years. Thereafter, appointments~~ *Appointments* shall be for four-year terms. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant; licensure by endorsement.

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant that shall include the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and

3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. The Board may issue a license by endorsement to an applicant for licensure as a physician assistant if the applicant (i) is the spouse of an active duty member of the Armed Forces of the United States or the Commonwealth, (ii) holds current certification from the National Commission on Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good standing, or that is eligible for reinstatement if lapsed, under the laws of another state.

C. Every physician assistant shall practice as part of a patient care team and shall ~~enter into~~ *provide care in accordance with* a written or electronic practice agreement ~~with at least one patient care team physician or patient care team podiatrist.~~

A practice agreement shall include acts pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for collaboration and consultation among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.

A practice agreement may include provisions for periodic site visits by a patient care team physician or patient care team podiatrist who is part of the patient care team at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by a ~~the~~ patient care team physician or patient care team podiatrist who is part of the patient care team.

D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to

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59 the Board upon request. The practice agreement may be maintained in writing or electronically, and may
60 be a part of credentialing documents, practice protocols, or procedures.

61 **§ 54.1-2951.2. Issuance of a license.**

62 The Board shall issue a license to the physician assistant to practice as part of a patient care team in
63 accordance with § 54.1-2951.1.

64 **§ 54.1-2951.4. Exception to physician assistant license requirement; physician assistant student.**

65 *The provisions of § 54.1-2902 shall not be construed as prohibiting a physician assistant student*
66 *who is enrolled in a physician assistant education program accredited by the Accreditation Review*
67 *Commission on Education for the Physician Assistant or its successor agency from engaging in acts that*
68 *constitute practice as a physician assistant.*

69 **§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care**
70 **teams; services that may be performed by physician assistants; responsibility of licensee;**
71 **employment of physician assistants.**

72 A. A patient care team physician or patient care team podiatrist licensed under this chapter may
73 serve on a patient care team with physician assistants and shall provide collaboration and consultation to
74 such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed
75 to collaborate or consult with more than six physician assistants on a patient care team at any one time.

76 *Service as part of a patient care team by a patient care team physician or patient care team*
77 *podiatrist shall not, by the existence of such service alone, establish or create vicarious liability for the*
78 *actions or inactions of other team members.*

79 B. Physician assistants may practice medicine to the extent and in the manner authorized by the
80 Board. A patient care team physician or patient care team podiatrist shall be available at all times to
81 collaborate and consult with physician assistants. Each patient care team shall identify the relevant
82 physician assistant's scope of practice and an evaluation process for the physician assistant's
83 performance.

84 C. Physician assistants appointed as medical examiners pursuant to § 32.1-282 shall only function as
85 part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been
86 appointed to serve as a medical examiner pursuant to § 32.1-282.

87 D. Any professional corporation or partnership of any licensee, any hospital and any commercial
88 enterprise having medical facilities for its employees that are supervised by one or more physicians or
89 podiatrists may employ one or more physician assistants in accordance with the provisions of this
90 section.

91 Activities shall be performed in a manner consistent with sound medical practice and the protection
92 of the health and safety of the patient. Such activities shall be set forth in a practice agreement ~~between~~
93 ~~the physician assistant and the patient care team physician or patient care team podiatrist~~ and may
94 include health care services that are educational, diagnostic, therapeutic, or preventive, including
95 establishing a diagnosis, providing treatment, and performing procedures. Prescribing or dispensing of
96 drugs may be permitted as provided in § 54.1-2952.1. In addition, a physician assistant may perform
97 initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency
98 department, in accordance with the practice agreement, including tasks performed, relating to the
99 provision of medical care in an emergency department.

100 ~~The patient care team physician who collaborates and consults with a physician assistant shall retain~~
101 ~~exclusive control of and responsibility for the physician assistant.~~ The A patient care team physician or
102 the on-duty emergency department physician shall be available at all times for collaboration and
103 consultation with both the physician assistant and the emergency department physician. No person shall
104 have responsibility for any physician assistant who is not employed by the person or the person's
105 business entity.

106 E. No physician assistant shall perform any acts beyond those set forth in the practice agreement or
107 authorized as part of the patient care team. No physician assistant practicing in a hospital shall render
108 care to a patient unless the physician responsible for that patient ~~has signed the practice agreement is~~
109 ~~available for collaboration or consultation,~~ pursuant to regulations of the Board; ~~to act as a physician on~~
110 ~~a patient care team for that physician assistant.~~ Every licensee, professional corporation or partnership of
111 licensees, hospital, or commercial enterprise that employs a physician assistant shall be fully responsible
112 for the acts of the physician assistant in the care and treatment of human beings.

113 F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is
114 working in the field of radiology as part of a patient care team, (ii) has been trained in the proper use of
115 equipment for the purpose of performing radiologic technology procedures consistent with Board
116 regulations, and (iii) has successfully completed the exam administered by the American Registry of
117 Radiologic Technologists for physician assistants for the purpose of performing radiologic technology
118 procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.

119 **§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician**
120 **assistants.**

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed physician assistant shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.); ~~and as provided that the physician assistant has entered into and is, at the time of writing a prescription, a party to in a practice agreement with a licensed patient care team physician or patient care team podiatrist that provides for collaboration and consultation regarding the prescriptive practices of the physician assistant.~~ Such practice agreements shall include a statement of the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the patient care team physician or patient care team podiatrist.

B. It shall be unlawful for the physician assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the practice agreement and the requirements in this section.

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency, which may include continuing education, testing, and 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, and (ii) a requirement that the physician assistant disclose to his patients his name, address, and telephone number and that he is a physician assistant. If a patient or his representative requests to speak with the patient care team physician or patient care team podiatrist, the physician assistant shall arrange for communication between the parties or provide the necessary information.

D. This section shall not prohibit a licensed physician assistant 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.

§ 54.1-2953. Renewal, revocation, suspension, and refusal.

The Board may revoke, suspend, or refuse to renew a license to practice as a physician assistant for any of the following:

1. Any action by a physician assistant constituting unprofessional conduct pursuant to § 54.1-2915;
2. Practice by a physician assistant other than as part of a patient care team, including practice without entering into a practice agreement ~~with at least one patient care team physician or patient care team podiatrist;~~
3. Failure of the physician assistant to practice in accordance with the requirements of his practice agreement;
4. Negligence or incompetence on the part of the physician assistant or other member of the patient care team ~~under his supervision;~~
5. Violation of or cooperation in the violation of any provision of this chapter or the regulations of the Board; or
6. Failure to comply with any regulation of the Board required for licensure of a physician assistant.

§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses' or physician assistants' authority to pronounce death under certain circumstances.

A. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in the Commonwealth, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition that directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of such physician, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed to practice medicine in the Commonwealth and board-eligible or board-certified in the field of neurology, neurosurgery, or critical care medicine, when based on the ordinary standards of medical practice, there is irreversible cessation of all functions of the entire brain, including the brain stem, and, in the opinion of such physician, based on the ordinary standards of medical practice and considering the irreversible cessation of all functions of the entire brain, including the brain stem, and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such functions, and, in such event, death shall be deemed to have occurred at the time when all such functions have ceased.

182 B. A registered nurse or a physician assistant ~~who practices under the supervision of a physician~~ may
183 pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician
184 assistant works at (a) a home care organization as defined in § 32.1-162.7, (b) a hospice as defined in
185 § 32.1-162.1, (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals
186 for the purposes of this section, (d) the Department of Corrections, or (e) a continuing care retirement
187 community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et
188 seq.) of Title 38.2; (ii) the nurse or physician assistant is directly involved in the care of the patient; (iii)
189 the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs;
190 (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable
191 period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to
192 § 54.1-2987.1 for the patient who has died. The nurse or physician assistant shall inform the patient's
193 attending and consulting physicians of ~~his~~ *the patient's* death as soon as practicable.

194 The nurse or physician assistant shall have the authority to pronounce death in accordance with such
195 procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the
196 circumstances of the death are not anticipated or the death requires an investigation by the Office of the
197 Chief Medical Examiner, the nurse or physician assistant shall notify the Office of the Chief Medical
198 Examiner of the death and the body shall not be released to the funeral director.

199 This subsection shall not authorize a nurse or physician assistant to determine the cause of death.
200 Determination of cause of death shall continue to be the responsibility of the attending physician, except
201 as provided in § 32.1-263. Further, this subsection shall not be construed to impose any obligation to
202 carry out the functions of this subsection.

203 This subsection shall not relieve any registered nurse or physician assistant from any civil or criminal
204 liability that might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of
205 Medicine regulations.

206 C. The alternative definitions of death provided in subdivisions A 1 and A 2 may be utilized for all
207 purposes in the Commonwealth, including the trial of civil and criminal cases.