

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-2957, as it is currently effective and as it shall become effective, and 54.1-2957.01 of the Code of Virginia, relating to clinical nurse specialist; practice agreement.

[H 285]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957, as it is currently effective and as it shall become effective, and 54.1-2957.01 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957. (Effective until July 1, 2022) Licensure and practice of nurse practitioners.

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 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 certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist 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 certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as 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. 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 pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least two 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 temporary licensure to nurse practitioners.

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

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

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

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

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

117 J. ~~Nurse practitioners~~ A nurse practitioner licensed by the Boards of Medicine and Nursing in the

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

§ 54.1-2957. (Effective July 1, 2022) Licensure and practice of nurse practitioners.

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 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 certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist 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 certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as 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. 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 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

179 temporary licensure to nurse practitioners.

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

193 H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards
 194 and consistent with the Standards for the Practice of Midwifery set by the American College of
 195 Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000
 196 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two
 197 years prior to entering into the practice agreement or a licensed physician, in accordance with a practice
 198 agreement. Such practice agreement shall address the availability of the certified nurse midwife who has
 199 practiced for at least two years prior to entering into the practice agreement or the licensed physician for
 200 routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained
 201 by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who
 202 has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice
 203 agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife
 204 who has practiced for at least two years prior to entering into the practice agreement or the licensed
 205 physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that
 206 such certified nurse midwife or licensed physician has provided consultation to the certified nurse
 207 midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of
 208 time for which such certified nurse midwife or licensed physician practiced in collaboration and
 209 consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse
 210 midwife authorized to practice without a practice agreement shall consult and collaborate with and refer
 211 patients to such other health care providers as may be appropriate for the care of the patient.

212 I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and
 213 Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse
 214 specialist, who has completed the equivalent of at least five years of full-time clinical experience as a
 215 licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which
 216 he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse
 217 practitioner of an attestation from the patient care team physician stating (i) that the patient care team
 218 physician has served as a patient care team physician on a patient care team with the nurse practitioner
 219 pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that
 220 while a party to such practice agreement, the patient care team physician routinely practiced with a
 221 patient population and in a practice area included within the category for which the nurse practitioner
 222 was certified and licensed; and (iii) the period of time for which the patient care team physician
 223 practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be
 224 submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation
 225 and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall
 226 issue to the nurse practitioner a new license that includes a designation indicating that the nurse
 227 practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner
 228 is unable to obtain the attestation required by this subsection, the Boards may accept other evidence
 229 demonstrating that the applicant has met the requirements of this subsection in accordance with
 230 regulations adopted by the Boards.

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

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

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

§ 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 *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the nurse practitioner and a licensed 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, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed 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, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician,* or shall clearly state the name of the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed 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, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician,* and information regarding how to contact the patient care team physician *or licensed physician.*

2. Physicians shall not serve as a patient care team physician on a patient care team at any one time

301 ~~to~~ or enter into a practice agreement with more than six nurse practitioners at any one time.

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

306 G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
307 by the Boards of Medicine and Nursing in the category of certified nurse midwife ~~or clinical nurse~~
308 ~~specialist~~ and holding a license for prescriptive authority may prescribe Schedules II through VI
309 controlled substances. However, if the nurse practitioner licensed by the Boards of Medicine and
310 Nursing in the category of certified nurse midwife ~~or clinical nurse specialist~~ is required, pursuant to
311 subsection H ~~or J~~ of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall
312 also be in accordance with any prescriptive authority included in such practice agreement.

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