

23100577D

HOUSE BILL NO. 2183

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia, relating to nurse practitioners; practice authority upon licensure.

Patron—Robinson

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 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. B. A certified nurse midwife shall practice pursuant to subsection H G. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J I. 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. C. 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 in accordance with subsections G and I 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. D. 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.

INTRODUCED

HB2183

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

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

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

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

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

118 J. I. A nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical
119 nurse specialist who does not prescribe controlled substances or devices may practice in the practice
120 category in which he is certified and licensed without a written or electronic practice agreement. Such

121 nurse practitioner shall (i) only practice within the scope of his clinical and professional training and
 122 limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult
 123 and collaborate with other health care providers based on the clinical condition of the patient to whom
 124 health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies
 125 to physicians or other appropriate health care providers.

126 A nurse practitioner licensed by the Boards in the category of clinical nurse specialist who prescribes
 127 controlled substances or devices shall practice in consultation with a licensed physician in accordance
 128 with a practice agreement between the nurse practitioner and the licensed physician. Such practice
 129 agreement shall address the availability of the physician for routine and urgent consultation on patient
 130 care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the
 131 Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of
 132 care for the profession and with applicable laws and regulations.

133 **§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse**
 134 **practitioners.**

135 A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33
 136 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II
 137 through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

138 B. A nurse practitioner who does not meet the requirements for practice without a written or
 139 electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled
 140 substances or devices only if such prescribing is authorized by a written or electronic practice agreement
 141 entered into by the nurse practitioner and a patient care team physician or, if the nurse practitioner is
 142 licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the nurse
 143 practitioner and a licensed physician. Such nurse practitioner shall provide to the Boards of Medicine
 144 and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into
 145 and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a
 146 patient care team physician, or, if the nurse practitioner is licensed by the Boards of Medicine and
 147 Nursing in the category of clinical nurse specialist, a licensed physician, that clearly states the
 148 prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall
 149 include the controlled substances the nurse practitioner is or is not authorized to prescribe and may
 150 restrict such prescriptive authority as described in the practice agreement. Evidence of a practice
 151 agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements
 152 authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section
 153 either shall be signed by the patient care team physician, or, if the nurse practitioner is licensed by the
 154 Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician, or
 155 shall clearly state the name of the patient care team physician, or, if the nurse practitioner is licensed by
 156 the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed
 157 physician, who has entered into the practice agreement with the nurse practitioner.

158 It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to
 159 this section unless (i) such prescription is authorized by the written or electronic practice agreement or
 160 (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement
 161 pursuant to subsection I of § 54.1-2957.

162 C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive
 163 authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate
 164 standard of care for patients. Such regulations shall include requirements as may be necessary to ensure
 165 continued nurse practitioner competency, which may include continuing education, testing, or any other
 166 requirement, and shall address the need to promote ethical practice, an appropriate standard of care,
 167 patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

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

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

172 1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed
 173 nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal
 174 representative, the name of the patient care team physician, or, if the nurse practitioner is licensed by
 175 the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed
 176 physician, and information regarding how to contact the patient care team physician or licensed
 177 physician.

178 2. Physicians shall not serve as a patient care team physician on a patient care team or enter into a
 179 practice agreement with more than six nurse practitioners at any one time, except that a physician may
 180 serve as a patient care team physician on a patient care team with up to 10 nurse practitioners licensed
 181 in the category of psychiatric-mental health nurse practitioner.

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

186 G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed
187 by the Boards of Medicine and Nursing in the category of certified nurse midwife and holding a license
188 for prescriptive authority may prescribe Schedules II through VI controlled substances. However, if the
189 nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse
190 midwife is required, pursuant to subsection ~~H~~ G of § 54.1-2957, to practice pursuant to a practice
191 agreement, such prescribing shall also be in accordance with any prescriptive authority included in such
192 practice agreement.

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