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HOUSE BILL NO. 971

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia, relating to nurse practitioners; patient care team provider; autonomous practice.

Patron—Tran

Committee Referral Pending

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 advanced practice registered nurses.

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~~ provider.

"Patient care team provider" or "provider" means a patient care team physician, as defined in § 54.1-2900, or a nurse practitioner who meets the requirements of subsection I, is authorized to practice without a written or electronic practice agreement, and provides management and leadership as a part of a team that provides care to patients.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of advanced practice registered nurses. It is unlawful for a person to practice as an advanced practice registered nurse in the Commonwealth unless he holds such a joint license.

C. Every 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~~ provider. 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 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. An advanced practice registered nurse 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 advanced practice registered nurses and patient care team ~~physicians~~ providers may be provided through telemedicine as described in § 38.2-3418.16.

~~Physicians~~ Patient care team providers on patient care teams may require that an advanced practice registered nurse 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~~ patient care team providers and advanced practice registered nurses 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 advanced practice registered nurse and the patient care team ~~physician~~ provider 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 an advanced practice registered nurse and provided to the Boards upon request. For advanced practice registered nurses providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the advanced practice registered nurse's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team ~~physician~~ provider.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as an advanced practice registered nurse if the applicant has been licensed as an advanced practice registered nurse under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of advanced practice registered nurses in the

59 Commonwealth. An advanced practice registered nurse to whom a license is issued by endorsement may
60 practice without a practice agreement with a patient care team ~~physician~~ *provider* pursuant to subsection
61 I if such application provides an attestation to the Boards that the applicant has completed the equivalent
62 of at least ~~five~~ *two* years of full-time clinical experience, as determined by the Boards, in accordance
63 with the laws of the state in which the nurse practitioner was licensed.

64 F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant
65 temporary licensure to advanced practice registered nurses.

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

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

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

117 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection
118 shall (a) only practice within the scope of his clinical and professional training and limits of his
119 knowledge and experience and consistent with the applicable standards of care, (b) consult and
120 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.

J. A clinical nurse specialist licensed by the Boards of Medicine and Nursing 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 clinical nurse specialist 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 clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the clinical nurse specialist 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 clinical nurse specialist 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 advanced practice registered nurses.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed advanced practice registered nurse 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. An advanced practice registered nurse 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 advanced practice registered nurse and a patient care team *physician provider as defined in § 54.1-2957* or, if the advanced practice registered nurse is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the advanced practice registered nurse and a licensed physician. Such advanced practice registered nurse shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the advanced practice registered nurse 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 provider*, or, if the advanced practice registered nurse 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 advanced practice registered nurse. Such written or electronic practice agreements shall include the controlled substances the advanced practice registered nurse 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 an advanced practice registered nurse pursuant to § 54.1-2957. Practice agreements authorizing an advanced practice registered nurse to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team *physician provider*, or, if the advanced practice registered nurse 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 provider*, or, if the advanced practice registered nurse 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 advanced practice registered nurse.

It shall be unlawful for an advanced practice registered nurse 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 advanced practice registered nurse 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 advanced practice registered nurses 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 advanced practice registered nurse 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 advanced practice registered nurses which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any advanced practice registered nurse authorized to prescribe drugs and devices pursuant to this section:

182 1. The advanced practice registered nurse shall disclose to the patient at the initial encounter that he
183 is a licensed advanced practice registered nurse. Any party to a practice agreement shall disclose, upon
184 request of a patient or his legal representative, the name of the patient care team ~~physician provider~~, or,
185 if the advanced practice registered nurse is licensed by the Boards of Medicine and Nursing in the
186 category of clinical nurse specialist, the name of the licensed physician, and information regarding how
187 to contact the patient care team ~~physician provider~~ or licensed physician.

188 2. ~~Physicians or nurse practitioners~~ shall not serve as a patient care team ~~physician provider~~ on a
189 patient care team or enter into a practice agreement with more than six advanced practice registered
190 nurses at any one time, except that a ~~physician or nurse practitioner~~ may serve as a patient care team
191 ~~physician provider~~ on a patient care team with up to 10 advanced practice registered nurses licensed in
192 the category of psychiatric-mental health advanced practice registered nurse.

193 F. This section shall not prohibit a licensed advanced practice registered nurse from administering
194 controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving
195 and dispensing manufacturers' professional samples of controlled substances in compliance with the
196 provisions of this section.

197 G. Notwithstanding any provision of law or regulation to the contrary, a certified nurse midwife
198 licensed by the Boards of Medicine and Nursing as such and holding a license for prescriptive authority
199 may prescribe Schedules II through VI controlled substances. However, if the certified nurse midwife
200 licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife is required,
201 pursuant to subsection H of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing
202 shall also be in accordance with any prescriptive authority included in such practice agreement.

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