

25104426D

HOUSE BILL NO. 2391

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 54.1-2900 and 54.1-2957 of the Code of Virginia, relating to certified registered nurse anesthetists; elimination of supervision requirement.

Patron—Sickles

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-2900 and 54.1-2957 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-2900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Advanced practice registered nurse" means a certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957, has completed an advanced graduate-level education program in a specialty category of nursing, and has passed a national certifying examination for that specialty.

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957, and who practices ~~under the supervision of~~ *in consultation with* a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal

INTRODUCED

HB2391

59 injuries or wrongful death, based on health care or professional services rendered, or that should have been
60 rendered, by a health care provider, to a patient.

61 "Nurse practitioner" means an advanced practice registered nurse, other than an advanced practice
62 registered nurse licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife,
63 certified registered nurse anesthetist, or clinical nurse specialist, who is jointly licensed by the Boards of
64 Medicine and Nursing pursuant to § 54.1-2957.

65 "Occupational therapy assistant" means an individual who has met the requirements of the Board for
66 licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of
67 occupational therapy.

68 "Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit
69 with the management and leadership of one or more patient care team physicians for the purpose of providing
70 and delivering health care to a patient or group of patients.

71 "Patient care team physician" means a physician who is actively licensed to practice medicine in the
72 Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and
73 leadership in the care of patients as part of a patient care team.

74 "Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the
75 Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and
76 leadership in the care of patients as part of a patient care team.

77 "Physician assistant" means a health care professional who has met the requirements of the Board for
78 licensure as a physician assistant.

79 "Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the
80 insertion of needles to prevent or modify the perception of pain or to normalize physiological functions,
81 including pain control, for the treatment of certain ailments or conditions of the body and includes the
82 techniques of electroacupuncture, cupping, and moxibustion. The practice of acupuncture does not include
83 the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of
84 any drugs, medications, serums or vaccines; or the procedure of the five needle auricular acupuncture
85 protocol (5NP) as exempted in § 54.1-2901.

86 "Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or
87 conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power,
88 endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting
89 from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment
90 and rehabilitation of such injuries or conditions, including in an inpatient or outpatient setting, under the
91 direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic,
92 podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

93 "Practice of behavior analysis" means the design, implementation, and evaluation of environmental
94 modifications, using behavioral stimuli and consequences, to produce socially significant improvement in
95 human behavior, including the use of direct observation, measurement, and functional analysis of the
96 relationship between environment and behavior.

97 "Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and
98 assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use
99 of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or
100 vaccines. "Practice of chiropractic" includes (i) requesting, receiving, and reviewing a patient's medical and
101 physical history, including information related to past surgical and nonsurgical treatment of the patient and
102 controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related
103 to the condition and symptoms of the patient, the examination and evaluation of the patient made by the
104 doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of
105 chiropractic" also includes performing the physical examination of an applicant for a commercial driver's
106 license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (a) applied for and
107 received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (b) registered with
108 the National Registry of Certified Medical Examiners.

109 "Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical
110 histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other
111 family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management
112 of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies
113 necessary for genetic assessment; (iv) integrating the results with personal and family medical history to
114 assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's
115 and family's responses to the medical condition or risk of recurrence and providing client-centered counseling
116 and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical,
117 educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of
118 medical, genetic, and counseling information for families and health care professionals.

119 "Practice of licensed certified midwifery" means the provision of primary health care for preadolescents,

adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine; and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,

dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2957. Licensure and practice of advanced practice registered nurses.

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 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 does not meet 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 clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist shall practice ~~under the supervision of~~ *in consultation with* a licensed doctor of medicine, osteopathy, podiatry, or dentistry *and under the regulations jointly promulgated by the Board of Medicine and the Board of Nursing*. 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 may be provided through telemedicine as described in § 38.2-3418.16.

Physicians 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 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 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.

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 Commonwealth. An advanced practice registered nurse 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 three years of full-time 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 advanced practice registered nurses.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, or for other good cause, and an advanced practice registered nurse is unable to enter into a new practice agreement with another patient care team physician, the advanced practice registered nurse may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such advanced practice registered nurse may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided that the advanced practice registered nurse continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the advanced practice registered nurse to continue practice under this subsection for another 60 days, provided that the advanced practice registered nurse provides evidence of efforts made to secure another patient care team physician and of access to physician input. At the conclusion of the second 60-day period, provided that the advanced practice registered nurse provides evidence of the continued efforts to secure another patient care team physician and of access to physician input, the designee or his alternate of the Boards may grant permission for the advanced practice registered nurse to continue practicing under the management and leadership of a nurse practitioner licensed by the Boards of Medicine and Nursing who (i) meets the requirements of subsection I, (ii) routinely practiced with a patient population and in a practice area within the category for which the advanced practice registered nurse was certified and licensed, and (iii) has been authorized to practice without a written or electronic practice agreement for at least three years.

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

I. A nurse practitioner who has completed the equivalent of at least three years of full-time clinical experience, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from either (i) the patient care team physician or (ii) an attesting nurse practitioner who assumed management and leadership of a nurse practitioner pursuant to subsection G and has met the requirements of this subsection for at least three years stating (a) that the patient care team physician or attesting nurse practitioner has served as a patient care team physician or attesting nurse practitioner, respectively, on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (b) that while a party to such practice agreement, the patient care team physician or attesting nurse practitioner routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (c) the period of time for which the patient care team physician or attesting nurse practitioner practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a

304 practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this
305 subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements
306 of this subsection in accordance with regulations adopted by the Boards.

307 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall
308 (1) only practice within the scope of his clinical and professional training and limits of his knowledge and
309 experience and consistent with the applicable standards of care, (2) consult and collaborate with other health
310 care providers based on the clinical conditions of the patient to whom health care is provided, and (3)
311 establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate
312 health care providers.

313 J. A clinical nurse specialist licensed by the Boards of Medicine and Nursing who does not prescribe
314 controlled substances or devices may practice in the practice category in which he is certified and licensed
315 without a written or electronic practice agreement. Such clinical nurse specialist shall (i) only practice within
316 the scope of his clinical and professional training and limits of his knowledge and experience and consistent
317 with the applicable standards of care, (ii) consult and collaborate with other health care providers based on
318 the clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of
319 complex medical cases and emergencies to physicians or other appropriate health care providers.

320 A clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices shall
321 practice in consultation with a licensed physician in accordance with a practice agreement between the
322 clinical nurse specialist and the licensed physician. Such practice agreement shall address the availability of
323 the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be
324 maintained by a clinical nurse specialist and provided to the Boards upon request. The practice of clinical
325 nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and
326 regulations.