

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 54.1-2957 and 54.1-2957.04 of the Code of Virginia, relating to certified*
 3 *nurse midwives; licensed certified midwives; independent practice; organized medical staff.*

4 [S 1352]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 54.1-2957 and 54.1-2957.04 of the Code of Virginia are amended and reenacted as follows:**8 **§ 54.1-2957. Licensure and practice of advanced practice registered nurses; certified nurse**
 9 **midwives; independent practice of certified nurse midwives.**10 A. As used in this section, "clinical experience" means the postgraduate delivery of health care directly to
 11 patients pursuant to a practice agreement with a patient care team physician.12 B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the
 13 licensure of advanced practice registered nurses. It is unlawful for a person to practice as an advanced
 14 practice registered nurse in the Commonwealth unless he holds such a joint license.15 C. Every nurse practitioner who does not meet the requirements of subsection I shall maintain appropriate
 16 collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one
 17 patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice
 18 without a written or electronic practice agreement. A certified nurse midwife shall practice pursuant to
 19 subsection H. A clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse
 20 anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or
 21 dentistry. An advanced practice registered nurse who is appointed as a medical examiner pursuant to §
 22 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has
 23 been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among
 24 advanced practice registered nurses and patient care team physicians may be provided through telemedicine
 25 as described in § 38.2-3418.16.26 Physicians on patient care teams may require that an advanced practice registered nurse be covered by a
 27 professional liability insurance policy with limits equal to the current limitation on damages set forth in §
 28 8.01-581.15.29 Service on a patient care team by a patient care team member shall not, by the existence of such service
 30 alone, establish or create liability for the actions or inactions of other team members.31 D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and
 32 consultation among physicians and advanced practice registered nurses working as part of patient care teams
 33 that shall include the development of, and periodic review and revision of, a written or electronic practice
 34 agreement; guidelines for availability and ongoing communications that define consultation among the
 35 collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice
 36 agreements shall include provisions for (i) periodic review of health records, which may include visits to the
 37 site where health care is delivered, in the manner and at the frequency determined by the advanced practice
 38 registered nurse and the patient care team physician and (ii) input from appropriate health care providers in
 39 complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be
 40 maintained by an advanced practice registered nurse and provided to the Boards upon request. For advanced
 41 practice registered nurses providing care to patients within a hospital or health care system, the practice
 42 agreement may be included as part of documents delineating the advanced practice registered nurse's clinical
 43 privileges or the electronic or written delineation of duties and responsibilities in collaboration and
 44 consultation with a patient care team physician.45 E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as
 46 an advanced practice registered nurse if the applicant has been licensed as an advanced practice registered
 47 nurse under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the
 48 qualifications for licensure required of advanced practice registered nurses in the Commonwealth. An
 49 advanced practice registered nurse to whom a license is issued by endorsement may practice without a
 50 practice agreement with a patient care team physician pursuant to subsection I if such application provides an
 51 attestation to the Boards that the applicant has completed the equivalent of at least three years of full-time
 52 experience, as determined by the Boards, in accordance with the laws of the state in which the nurse
 53 practitioner was licensed.54 F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant
 55 temporary licensure to advanced practice registered nurses.

56 G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires

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

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

97 *For the purposes of this subsection, "independent practice midwife" means a licensed certified midwife*
 98 *who is authorized to practice without a practice agreement pursuant subsection D of § 54.1-2957.04 and has*
 99 *practiced independently for two years or a certified nurse midwife who is authorized to practice without a*
 100 *practice agreement pursuant to this subsection and has practiced independently for two years.*

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

119 of this subsection in accordance with regulations adopted by the Boards.

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

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

133 A clinical nurse specialist licensed by the Boards who prescribes controlled substances or devices shall
 134 practice in consultation with a licensed physician in accordance with a practice agreement between the
 135 clinical nurse specialist and the licensed physician. Such practice agreement shall address the availability of
 136 the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be
 137 maintained by a clinical nurse specialist and provided to the Boards upon request. The practice of clinical
 138 nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and
 139 regulations.

140 **§ 54.1-2957.04. Licensure as a licensed certified midwife; practice as a licensed certified midwife;**
 141 **independent practice as a licensed certified midwife; use of title; required disclosures.**

142 A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified
 143 midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license
 144 as such issued jointly by the Boards of Medicine and Nursing.

145 B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed
 146 certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife
 147 that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current
 148 certification as a certified midwife by the American Midwifery Certification Board and that shall be
 149 consistent with the requirements for certification as a certified midwife established by the American
 150 Midwifery Certification Board.

151 C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as
 152 a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another
 153 state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a
 154 licensed certified midwife in the Commonwealth.

155 ~~D. Licensed~~ *A licensed certified midwife who has practiced fewer than 1,000 hours shall*
 156 *practice in consultation with a licensed physician or independent practice midwife in accordance with a*
 157 *practice agreement between the licensed certified midwife and the licensed physician or independent practice*
 158 *midwife. Such practice agreement shall address the availability of the physician or independent practice*
 159 *midwife for routine and urgent consultation on patient care. Evidence of a practice agreement shall be*
 160 *maintained by the licensed certified midwife and provided to the Board upon request. A licensed certified*
 161 *midwife who has completed 1,000 hours of practice as a licensed certified midwife may practice without a*
 162 *practice agreement upon receipt by the licensed certified midwife of an attestation from the licensed*
 163 *physician or independent practice midwife with whom the licensed certified midwife has entered into a*
 164 *practice agreement stating (i) that such licensed physician or independent practice midwife has provided*
 165 *consultation to the licensed certified midwife pursuant to a practice agreement meeting the requirements of*
 166 *this section and (ii) the period of time for which such licensed physician or independent practice midwife*
 167 *practiced in collaboration and consultation with the licensed certified midwife pursuant to the practice*
 168 *agreement. A licensed certified midwife authorized to practice without a practice agreement shall consult,*
 169 *collaborate with, and refer patients to other health care providers as may be appropriate for the care of the*
 170 *patient. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in*
 171 *accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be*
 172 *consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives*
 173 *governing the practice of midwifery.*

174 *For the purposes of this subsection, "independent practice midwife" means a licensed certified midwife*
 175 *who is authorized to practice without a practice agreement pursuant to this subsection and has practiced*
 176 *independently for two years or a certified nurse midwife who is authorized to practice without a practice*
 177 *agreement pursuant to subsection H of § 54.1-2957 and has practiced independently for two years.*

178 E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may
 179 prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of
 180 Medicine and Nursing.

181 F. A licensed certified midwife who provides health care services to a patient outside of a hospital or
182 birthing center shall disclose to that patient, when appropriate, information on health risks associated with
183 births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births
184 after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births
185 involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in §
186 54.1-2957.03.

187 G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's
188 negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law,
189 any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the
190 patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii)
191 advanced practice registered nurse, (iv) prehospital emergency medical personnel, or (v) hospital as defined
192 in § 32.1-123, or any employee of, person providing services pursuant to a contract with, or agent of such
193 hospital, that provides screening and stabilization health care services to a patient as a result of a licensed
194 certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune
195 from liability for acts or omissions constituting ordinary negligence.

196 **2. The Department of Health shall amend the definition of "organized medical staff" in 12VAC5-**
197 **410-10 to clarify that an organized medical staff may include other practitioners, including**
198 **independent practice midwives, in addition to physicians and dentists.**