



Ohio Legislative Service Commission

Bill Analysis

Elizabeth Molnar

H.B. 216

131st General Assembly
(As Introduced)

Reps. Pelanda, Brinkman, Becker, Roegner, Buchy, Brenner, Scherer, Schaffer, Burkley, Ryan, Maag, Schuring, Slaby, Ruhl, Reece, Hill, Thompson, Celebrezze

BILL SUMMARY

- Replaces the existing certificate of authority issued by the Ohio Board of Nursing that authorizes a registered nurse with advanced education and training to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with an advanced practice registered nurse (APRN) license.
- Allows an APRN to practice without a collaborating physician or podiatrist, or in the case of an APRN who is a certified registered nurse anesthetist, without a supervising dentist, physician, or podiatrist.
- Eliminates the requirement that an APRN who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner enter into a standard care arrangement with one or more collaborating physicians or podiatrists and practice in accordance with the agreement.
- Grants an APRN, including a certified registered nurse anesthetist, the authority to prescribe most drugs as part of the APRN license, without need for a separate certificate to prescribe or completion of a supervised externship.
- Eliminates the drug formulary established by the Board that specifies the drugs an APRN is authorized to prescribe.
- Makes conforming changes to the laws governing nurses and other health professionals.

CONTENT AND OPERATION

Advanced practice registered nurse license

The bill establishes an advanced practice registered nurse (APRN) license issued by the Ohio Board of Nursing that includes designation in a nursing specialty as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.¹ This replaces existing law, which provides that a registered nurse (RN) who holds an RN license issued by the Board and has completed advanced education and training may obtain from the Board a certificate of authority that authorizes the nurse to practice in one of the four APRN specialties.²

Collaboration, supervision, and standard care arrangement

Collaboration and supervision

The bill eliminates the current requirement that a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner practice in collaboration with a physician or podiatrist. In the case of a certified registered nurse anesthetist, it eliminates the requirement that the nurse practice with a supervising dentist, physician, or podiatrist.³

Under the current collaboration requirement, a physician or podiatrist with whom a nurse has entered into a standard care arrangement must be continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication. The supervision requirement provides that, when administering anesthesia, a certified registered nurse anesthetist must practice in the immediate presence of a dentist, physician, or podiatrist.⁴

Standard care arrangement

The bill eliminates the requirement that a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner enter into a standard care arrangement with one or more collaborating physicians or podiatrists and practice in accordance with the

¹ R.C. 4723.41.

² R.C. 4723.01.

³ R.C. 4723.43 (repealed).

⁴ R.C. 4723.43 (current law).

arrangement. Current law does not require a certified registered nurse anesthetist to enter into a standard care arrangement.⁵

A standard care arrangement is a written, formal guide for planning and evaluating a patient's health care that is developed by one or more collaborating physicians or podiatrists and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. Current law requires that a standard care arrangement contain certain information, including the following:

(1) Criteria for referral of a patient by the nurse to a collaborating physician or podiatrist;

(2) A process for the nurse to obtain a consultation with a collaborating physician or podiatrist;

(3) A plan for coverage in instances of emergency or planned absences of either the nurse or collaborating physician or podiatrist that provides the means whereby a physician or podiatrist is available for emergency care;

(4) The process for resolution of disagreements regarding matters of patient management between the nurse and a collaborating physician or podiatrist.⁶

Existing law also requires that a copy of the standard care arrangement be retained on file at each site where the nurse practices and authorizes the Board to periodically review the arrangement for compliance with the law.

Prescriptive authority

The bill grants each APRN specialty, including the certified registered nurse anesthetist specialty, the authority to prescribe or personally furnish most drugs and therapeutic devices as part of the APRN license.⁷

Under current law, an RN who holds a certificate of authority as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may apply for a certificate to prescribe issued by the Board, while a certified registered nurse anesthetist may not. A certificate to prescribe allows the nurse to do the following:

(1) Prescribe a drug or device included in the formulary established by the Board;

⁵ R.C. 4723.431 (repealed).

⁶ R.C. 4723.431 (repealed).

⁷ R.C. 4723.481.

(2) Prescribe a schedule II controlled substance under certain conditions or from specified locations only;

(3) Personally furnish to a patient a sample of a drug or device included in the formulary (other than a schedule II controlled substance) in an amount that does not exceed a 72 hour supply.⁸

The bill eliminates the certificate to prescribe, along with the initial externship certificate that requires supervision of the nurse's prescribing practices by one or more collaborating physicians or podiatrists.⁹ It also eliminates the formulary, as well as the requirement that an APRN with prescriptive authority prescribe or personally furnish only those drugs or therapeutic devices listed in the formulary.¹⁰

However, the bill retains the existing prohibitions on an APRN (1) personally furnishing to a patient a schedule II controlled substance or (2) prescribing a schedule II controlled substance from a convenience care clinic. The bill also maintains current law that prohibits a nurse from prescribing a drug or device to perform or induce an abortion.¹¹

Advanced pharmacology

The bill continues the requirement that an applicant provide to the Board evidence of successfully completing a course of study in advanced pharmacology but extends to five years (from three) the time after completion of the course of study by which an applicant must seek prescriptive authority.¹² The bill allows instruction in the course of study specific to schedule II controlled substances to be delivered through electronic means.¹³ With respect to continuing education in advanced pharmacology, the bill maintains the requirement that 12 hours be completed for each renewal period.¹⁴

⁸ R.C. 3719.06 and 4723.481.

⁹ R.C. 4723.484 (repealed) and 4723.485 (repealed).

¹⁰ R.C. 4723.50.

¹¹ R.C. 3719.06, 4723.481, and 4723.151.

¹² R.C. 4723.482.

¹³ R.C. 4723.482.

¹⁴ R.C. 4723.486.

License application and renewal

Current law authorizes the Board to issue to an RN, upon application, a certificate of authority to practice in one of the following specialties: certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, and certified nurse practitioner. The bill instead authorizes the Board to issue to an applicant an APRN license that includes designation in one of the four specialties. The bill shortens to 30 the number of days the Board has to issue or deny the license. At present, the Board must issue or deny a certificate of authority not later than 60 days after receiving the application.¹⁵

Application fees

The bill authorizes the Board to impose on an applicant for an APRN license an application fee not to exceed \$150. The current application fee for a certificate of authority cannot exceed \$100, while the application fee for a certificate to prescribe cannot be more than \$50.¹⁶

Renewals

Under existing law, a license or certificate issued by the Board must be renewed biennially to remain active. For renewal of an APRN license, the bill authorizes the Board to impose a fee not to exceed \$135. The current renewal fee for a certificate of authority cannot be more than \$85, while the renewal fee for a certificate to prescribe cannot exceed \$50. The bill maintains the existing renewal fee limit of \$65 for an RN license, but provides that this fee is not to be charged when an RN is renewing an APRN license.¹⁷

The bill specifies that the renewal of an APRN license automatically renews the APRN's RN license.¹⁸ The bill also permits continuing education credits earned by an APRN to count as credit for the renewal of an RN license. The bill is unclear as to whether a nurse may continue to practice as an RN while allowing the nurse's APRN license to become inactive.

¹⁵ R.C. 4723.41 and 4723.42.

¹⁶ R.C. 4723.08.

¹⁷ R.C. 4723.08.

¹⁸ R.C. 4723.24.

Unauthorized practice as an APRN

The bill prohibits a person from doing any of the following without a valid, current license to practice nursing as an APRN:

- (1) Engaging in the practice of nursing as an APRN for a fee, salary, or other consideration, or as a volunteer;
- (2) Representing the person as being an APRN;
- (3) Using any title or initials implying that the person is an advanced practice registered nurse.¹⁹

This replaces provisions of current law that prohibit a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner from practicing without the appropriate certificate. As under current law, a first offense is punishable as a fifth degree felony and a subsequent offense as a fourth degree felony.²⁰ As is the case for certificate holders under current law, the bill also specifies that an APRN who engages in the practice of nursing under a license that has lapsed for failure to renew or that has been classified as inactive is guilty of a minor misdemeanor.

Board of Nursing

Board membership

At present, the Board consists of 13 members, eight of whom must be RNs. The bill requires that at least two of the eight RN members hold a current, valid APRN license. Under existing law, only one of the eight RN members must hold a certificate of authority that authorizes the practice of nursing in one of four specialties. The bill also requires that the Board elect one of its RN members as president and one as vice-president.²¹

¹⁹ R.C. 4723.03 and 4723.44.

²⁰ R.C. 4723.99.

²¹ R.C. 4723.02.



Quorum

Existing law provides that seven members of the board, including at least four RNs and one licensed practical nurse (LPN), constitute a quorum. Under the bill, at least one of the four RNs must also be an APRN.²²

Executive Director

Current law requires that the Board appoint as Executive Director an RN with at least five years of experience in practice. Under the bill, the Board may appoint either an RN or an APRN.²³

Committee on Prescriptive Governance

The bill eliminates the Committee on Prescriptive Governance, which consists of four nurses, four physicians, and two pharmacists. The Board is prohibited from adopting any rule regarding APRN prescriptive authority that does not conform to a recommendation made by the Committee.

The bill replaces the Committee on Prescriptive Governance with an Advisory Committee on Advanced Practice Registered Nursing.²⁴ The Advisory Committee is responsible for advising the Board on the practice and regulation of APRNs and consists of the following members appointed by the Board:

(1) Four APRNs who are actively practicing in Ohio in clinical settings, at least two of whom are actively engaged in providing primary care;

(2) Four APRNs who each serve as faculty members of approved programs of nursing education that prepare students for licensure as APRNs;

(3) One member of the Board who is an APRN;

(4) One representative of an entity that employs ten or more APRNs who are actively practicing in Ohio.

Initial appointments must be made not later than 60 days after the bill's effective date and members serve at the discretion of the Board.

²² R.C. 4723.02.

²³ R.C. 4723.05.

²⁴ R.C. 4723.49.



Advisory Group on Dialysis

The Advisory Group on Dialysis is responsible for advising the Board on matters related to the regulation of dialysis technicians and dialysis technician interns. Current law requires that the Board appoint a physician who specializes in nephrology to serve as a member of the group. Under the bill, the Board may appoint either such a physician or an APRN recommended by the Board who specializes in nephrology.²⁵

Conforming changes

As the bill establishes a separate APRN license that includes prescriptive authority, eliminates the requirement that an APRN enter into a standard care arrangement with one or more collaborating physicians or podiatrists, and allows an APRN to practice without a collaborating physician or podiatrist or a supervising dentist, physician, or podiatrist, it makes conforming changes to the laws governing nurses and other health professionals.²⁶

Other changes

Insurance and maternity benefits

Current law requires that an individual or group health insuring corporation policy, individual or group policy of sickness and accident insurance, public employee benefit plan, or multiple welfare arrangement that provides maternity benefits, as well as Medicaid, provide coverage for certain care following a delivery, but only if the care

²⁵ R.C. 4723.71.

²⁶ R.C. 1.64 (APRN specialty definitions), 2305.113 (commencing medical malpractice action), 2305.234 (volunteer health care professional immunity), 2925.61 (lawful administration of naloxone), 3701.926 (patient centered medical home education pilot project), 3719.121 (suspension of health care professional licensure due to substance abuse), 3727.06 (admitting hospital patients), 3923.233 (insurance reimbursement for services performed by a certified nurse-midwife), 3923.301 (insurance reimbursement for services performed by a certified nurse-midwife), 4713.02 (State Board of Cosmetology membership), 4723.06 (Board of Nursing powers and duties), 4723.07 (Board of Nursing rule-making authority), 4723.09 (license application requirements), 4723.10 (national standardized nursing examination), 4723.151 (prohibit practice of medicine and surgery by nurses), 4723.16 (providing nursing services through authorized business entity), 4723.25 (domestic violence continuing education), 4723.271 (replacement copy of license or certificate), 4723.28 (Board of Nursing disciplinary actions), 4723.32 (practice of nursing by students), 4723.341 (immunity for reporting negligence to Board of Nursing), 4723.36 (determination of death), 4723.432 (cooperation in Medical and Dental Board investigations), 4723.46 (list of approved national certifying organizations), 4723.487 (review of patient information in OARRS), 4723.488 (authority to supply naloxone), 4731.22 (Medical Board disciplinary actions), 4731.281 (Medical Board certificate renewals), 4731.35 (anesthesia administration), 4755.48 (prescription for physical therapy), 4761.17 (respiratory care supervision), and 5120.55 (Department of Rehabilitation and Correction licensed health professional recruitment program).

is from a physician-directed source. The bill provides coverage of follow-up care directed by either a physician or APRN.²⁷

Pharmacist consult agreements

A consult agreement authorizes a pharmacist to manage an individual's drug therapy, but only to the extent specified in the agreement. Existing law permits consult agreements only between pharmacists and physicians. The bill allows a pharmacist to enter into a consult agreement with an APRN.²⁸

Applications for hospital staff membership or professional privileges

Current law requires that the governing body of every hospital set standards and procedures to be applied by the hospital and its medical staff in considering and acting upon applications for staff membership or professional privileges. Current law prohibits the governing body, in considering and acting upon an application, from discriminating against a qualified person solely on the basis of whether that person is certified to practice medicine, osteopathic medicine, or podiatry or licensed to practice dentistry or psychology. The bill includes APRN licensure in this prohibition.²⁹

Testimonial privilege

Ohio law recognizes a physician-patient testimonial privilege. In general, a physician cannot testify concerning (1) a communication made to the physician by a patient in the course of the physician-patient relationship or (2) the advice of the physician to a patient. The bill extends this testimonial privilege to APRNs.³⁰

Cause of death certification

Under existing law, a funeral director or other person in charge of a final disposition of remains must present the decedent's death certificate to the attending physician, coroner, or medical examiner for certification of the cause of death. A medical certificate of death must be completed and signed by the attending physician, coroner, or medical examiner within 48 hours after death. The bill permits an APRN to certify a cause of death or complete and sign a medical certificate of death.³¹

²⁷ R.C. 1751.67, 3923.63, 3923.64, and 5164.07.

²⁸ R.C. 4729.01 and 4729.39.

²⁹ R.C. 3701.351.

³⁰ R.C. 2317.02.

³¹ R.C. 3705.16 and 4723.36.

Report of death

Current law prohibits a person who discovers the body or acquires first knowledge of a person's death from failing to immediately report the death to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected. The bill permits the report to be made to an APRN under the same circumstances.³²

Do-not-resuscitate order

In the case of a do-not-resuscitate (DNR) order, existing law allows two types of APRNs, certified nurse practitioners and clinical nurse specialists, to take any action that an attending physician may take. The bill extends this authority to the other two types of APRNs, certified nurse-midwives and certified registered nurse anesthetists. In a corresponding provision, the bill grants to these additional APRNs the same immunity from civil liability and criminal prosecution that current law grants to attending physicians, certified nurse practitioners, and clinical nurse specialists.³³

HISTORY

ACTION	DATE
Introduced	05-18-15

H0216-I-131.docx/ks

³² R.C. 2921.22.

³³ R.C. 2133.211.

