Ohio Legislative Service Commission

Bill Analysis

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(As Passed by the House)

Reps. Pelanda, Brinkman, Becker, Roegner, Buchy, Brenner, Scherer, Schaffer, Burkley, Ryan, Maag, Schuring, Slaby, Ruhl, Reece, Hill, Thompson, Celebrezze, Hood, Barnes, Bishoff, Brown, Ginter, Anielski, Antonio, Arndt, Boose, Boyd, Clyde, Curtin, Derickson, Dovilla, Grossman, Hambley, Kuhns, Leland, Lepore-Hagan, M. O'Brien, S. O'Brien, Patterson, Rezabek, Rogers, K. Smith, R. Smith, Sprague, Sweeney

BILL SUMMARY

- Establishes an advanced practice registered nurse (APRN) license issued by the Ohio Board of Nursing that, like the current certificate of authority it replaces, 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.

- Grants an APRN, other than a certified registered nurse anesthetist, authority to prescribe and furnish most drugs as part of the APRN license, without need for a separate certificate to prescribe or completion of a supervised externship.

- Requires that the Board establish an exclusionary drug formulary specifying the drugs an APRN is not authorized to prescribe. Also requires that the formulary be consistent with recommendations developed by the Committee on Prescriptive Governance.

- Increases to five (from three) the number of APRNs with whom a physician or podiatrist may collaborate at the same time in the prescribing component of an APRN's practice.

- Allows an APRN to continue to practice under an existing standard care arrangement without a collaborating physician or podiatrist for a period of not more than 120 days if the physician or podiatrist terminates the collaboration and the nurse immediately notifies the Board of the termination.

- Establishes the Advisory Committee on Advanced Practice Registered Nursing to advise the Board on the practice and regulation of APRNs.

- Makes conforming changes to the laws governing nurses and other health professionals.

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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 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 a certificate of authority from the Board that authorizes the nurse to practice as one of the four types of APRNs.[2]

Collaboration, supervision, and standard care arrangement

Collaboration and supervision

The bill continues the current law requirement that a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner practice in collaboration with a physician or podiatrist.[3] Collaboration requires that a physician or podiatrist with whom a nurse has entered into a standard care arrangement be continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication. The bill modifies this requirement, specifying that the physician or podiatrist must be continuously available to communicate either in person or by electronic communication.[4]

The bill also maintains the existing law requirement that a certified registered nurse anesthetist practice with a supervising dentist, physician, or podiatrist. Supervision requires that a certified registered nurse anesthetist practice in the immediate presence of a dentist, physician, or podiatrist when administering anesthesia.[5]

Standard care arrangement

The bill preserves current law, requiring 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 arrangement. Existing law does not require a certified registered nurse anesthetist to enter into a standard care arrangement.[6]

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[1] R.C. 4723.41.

[2] R.C. 4723.01.

[3] R.C. 4723.43.

[4] R.C. 4723.43.

[5] R.C. 4723.43.

[6] R.C. 4723.431.

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.[7]

Current law requires that a copy of the standard care arrangement be retained on file at each site where the nurse practices. Under the bill, it must be retained on file by the staff office of the medical system where the nurse is working or the nurse's practice administrator.[8]

Practice after termination of physician collaboration

The bill permits a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to practice without a collaborating physician or podiatrist for not more than 120 days if all of the following conditions are met:

(1) The collaborating physician or podiatrist terminates the collaboration before the standard care arrangement expires;

(2) The nurse immediately notifies the Board of Nursing of the termination;

(3) The nurse continues to practice under the existing standard care arrangement.

The bill provides that the 120-day period runs from the date the nurse notifies the Board of the termination.[9]

Physician collaboration in the prescribing component of APRN practice

The bill increases to five the number of APRNs with whom a physician or podiatrist may collaborate at the same time in the prescribing component of APRN practice. Current law prohibits a physician or podiatrist from collaborating with more than three APRNs at the same time in the prescribing component of their practices.[10]

Psychiatric clinical nurse specialists

Under existing law, a clinical nurse who does not have prescriptive authority and whose specialty is mental health or psychiatric mental health may practice without

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[7] R.C. 4723.431.

[8] R.C. 4723.431.

[9] R.C. 4723.431(E).

[10] R.C. 4723.431.

a standard care arrangement as long as the nurse practices in collaboration with one or more physicians. If the nurse has prescriptive authority, the nurse must enter into a standard care arrangement with one or more physicians who practice in the same or similar specialty. The standard care arrangement need only address the prescribing components of the nurse's practice.[11]

The bill maintains the current exception, but also provides that a physician collaborating with a psychiatric clinical nurse specialist must be one who specializes in any of the following:

(1) The same or similar specialty as the nurse;

(2) Pediatrics;

(3) Primary care or family practice.[12]

Prescriptive authority

The APRN license grants each type of APRN, other than a certified registered nurse anesthetist, authority to prescribe or personally furnish most drugs and therapeutic devices.[13]

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 authorizes the nurse to prescribe or personally furnish drugs or devices, if the following conditions are met:

(1) The drug or device is included in the formulary established by the Board;

(2) In the case of a schedule II controlled substance, the drug is prescribed only under certain conditions or from specified locations;

(3) In the case of a sample of a drug or device (other than a schedule II controlled substance), the drug or device is personally furnished to a patient in an amount that does not exceed a 72 hour supply;

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[11] R.C. 4723.431(D).

[12] R.C. 4723.431(D).

[13] R.C. 4723.481.

(4) In the case of a complete or partial supply of a specified drug or device, the drug or device is personally furnished to a patient from a local health department, federally funded primary care clinic, or nonprofit clinic or program only.[14]

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.[15] However, it retains some of the conditions described above while eliminating others. These are described below.

Formulary

The bill maintains the drug formulary, but instead requires that it be "exclusionary," specifying only those drugs or devices that a nurse is not authorized to prescribe or furnish.[16]

Controlled substances

In the case of a schedule II controlled substance, the bill retains current law allowing an APRN to prescribe only under certain conditions or from specified locations, but adds residential care facilities as locations from which a prescription for a controlled substance may be issued. (Residential care facilities are often referred to as assisted living facilities.)

The conditions that must be met before an APRN may prescribe a schedule II controlled substance are that (1) the patient has a terminal condition, (2) the collaborating physician initially prescribed the substance for the patient, and (3) the prescription is for an amount that does not exceed that necessary for the patient's use in a single, 24-hour period. The specified locations from which an APRN may prescribe a schedule II controlled substance include hospitals, nursing homes, hospice care programs, ambulatory surgical facilities, and freestanding birthing centers.

The bill also maintains the existing prohibitions on a nurse (1) personally furnishing to a patient a schedule II controlled substance or (2) prescribing a schedule II controlled substance from a convenience care clinic.[17]

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[14] R.C. 3719.06 and 4723.481.

[15] R.C. 4723.484 (repealed) and 4723.485 (repealed).

[16] R.C. 4723.50.

[17] R.C. 3719.06 and 4723.481.

Drugs to induce an abortion

The bill retains current law prohibiting a nurse from prescribing a drug or device to perform or induce an abortion.[18]

Furnishing drugs other than controlled substances

The bill eliminates the conditions governing a nurse furnishing a sample or a complete or partial supply of a drug other than a controlled substance.[19]

Pharmacology education

The bill continues the requirement that an applicant, other than an applicant for designation as a certified registered nurse anesthetist, provide the Board evidence of having successfully completed a course of study in advanced pharmacology. The bill also extends to five years (from three) the time after completion of the course of study by which an applicant must apply for an APRN license.[20] With respect to continuing education in advanced pharmacology, the bill maintains the requirement that 12 hours be completed by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in each renewal period.[21]

License application and renewal

Current law authorizes the Board to issue to an RN, upon application, a certificate of authority to practice as one of the following: a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. The bill instead authorizes the Board to issue to an applicant an APRN license that includes designation as one of the four types of APRNs. 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.[22]

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

[18] R.C. 4723.151.

[19] R.C. 4723.481.

[20] R.C. 4723.482.

[21] R.C. 4723.24.

[22] R.C. 4723.41 and 4723.42.

authority cannot exceed $100, while the application fee for a certificate to prescribe cannot be more than $50.[23]

Renewals

The bill requires that an APRN license and RN license each be renewed separately.[24] Under existing law, any 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.

Continuing education

Under the bill, 24 hours of continuing education must be completed for an APRN license during a biennial renewal period. The bill specifies that these hours are in addition to the continuing education hours required to renew an RN license. It also permits certain continuing education credits earned by an APRN to maintain certification by a national certifying organization to count as credit for the renewal of both an RN and APRN license.[25]

Inactive status

The bill specifies that if a nurse's RN license is classified as inactive, the nurse's APRN license is automatically classified as inactive while the RN license remains inactive.[26] This is similar to current law which provides that if an RN license is classified as inactive, the nurse's certificate of authority is automatically classified as inactive while the RN license remains inactive.[27]

License suspension, revocation, or failure to renew

Current law provides that if an APRN's RN license lapses for failure to renew, the nurse's certificate of authority is lapsed until the RN license is reinstated. The bill

[23] R.C. 4723.08.

[24] R.C. 4723.24.

[25] R.C. 4723.24.

[26] R.C. 4723.47.

[27] R.C. 4723.47.

instead provides that the nurse's APRN license is lapsed if the RN license lapses for failure to renew.[28]

The bill also specifies that if either license is revoked or suspended, the other license is automatically revoked or suspended. This is similar to current law which provides that if an RN license is revoked or suspended, the nurse's certificate of authority is automatically suspended.[29]

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.[30]

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. Like current law, a first offense is punishable as a fifth degree felony and a subsequent offense as a fourth degree felony.[31] As is the case for certificate holders under existing 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 current, valid APRN licenses. Under existing law, only one of the eight RN members must hold a certificate

[28] R.C. 4723.47.

[29] R.C. 4723.47.

[30] R.C. 4723.03 and 4723.44.

[31] R.C. 4723.99.

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.[32]

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.[33]

Committee on Prescriptive Governance

The bill maintains the Committee on Prescriptive Governance, but specifies that its membership consists of three nurses, three physicians, and one pharmacist.[34] Under current law, the Committee consists of four nurses, four physicians, and two pharmacists.

The bill requires that all seven members be present in order for the Committee to conduct official business. It also specifies that the pharmacist member is a nonvoting member. In the case of a tie, the bill grants the Board of Nursing the deciding vote.

The bill requires that the Committee develop and submit to the Board at least once per year a recommended exclusionary formulary for the Board's approval. Existing law prohibits the Board from adopting any rule regarding APRN prescriptive authority that does not conform to a recommendation made by the Committee. The bill similarly requires that the Board adopt rules consistent with the recommended exclusionary formulary submitted by the Committee. However, as under current law, the Board may ask the Committee to reconsider and resubmit the recommended formulary.[35]

Advisory Committee on Advanced Practice Registered Nursing

The bill establishes an Advisory Committee on Advanced Practice Registered Nursing.[36] The Advisory Committee is responsible for advising the Board on the practice and regulation of APRNs. It may also make recommendations to the

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[32] R.C. 4723.02.

[33] R.C. 4723.02.

[34] R.C. 4729.49.

[35] R.C. 4729.50.

[36] R.C. 4723.493.

Committee on Prescriptive Governance. The Advisory Committee consists of the following members appointed by the Board:

(1) Four APRNs who are actively practicing in Ohio in clinical settings, at least one of whom is actively engaged in providing primary care, at least one of whom is actively engaged in practice as a certified registered nurse anesthetist, and at least one of whom is actively engaged in practice as a certified nurse-midwife;

(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.

The board may appoint additional members on the Advisory Committee's recommendation. Initial appointments must be made not later than 60 days after the bill's effective date. Members serve at the discretion of the Board.

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 such a physician or an APRN recommended by the Board who specializes in nephrology.[37]

Conforming changes

As the bill establishes a separate APRN license that includes prescriptive authority, it makes conforming changes to the laws governing nurses and other health professionals.[38]

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[37] R.C. 4723.71.

[38] 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), 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), 4723.151 (prohibit practice of medicine and surgery by nurses), 4723.16 (providing nursing services

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 is from a physician-directed source. The bill provides coverage of follow-up care directed by either a physician or APRN.[39]

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.[40]

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.[41]

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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), 4723.432 (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), 4731.35 (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).

[39] R.C. 1751.67, 3923.63, 3923.64, and 5164.07.

[40] R.C. 3701.351.

[41] R.C. 2317.02.

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.[42]

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.[43]

HISTORY

ACTION	DATE
Introduced	05-18-15
Reported, H. Health & Aging	05-25-16
Passed House (96-1)	05-25-16

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[42] R.C. 2921.22.

[43] R.C. 2133.211.