



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 216\*

131st General Assembly

(As Reported by S. Health & Human Services)

**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

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## 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.

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\* This analysis was prepared before the report of the Senate Health & Human Services Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- 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 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 APRNs and other health professionals.
- Makes changes to the laws governing the Board of Nursing.
- Authorizes a podiatrist to order and supervise hyperbaric oxygen therapy if specified conditions are met.
- Requires state agencies to assess the prevalence of diabetes and engage in related activities.

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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.<sup>1</sup> 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.<sup>2</sup>

### **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.<sup>3</sup> Collaboration requires that a physician or podiatrist with

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<sup>1</sup> R.C. 4723.41.

<sup>2</sup> R.C. 4723.01.

<sup>3</sup> R.C. 4723.43.



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.<sup>4</sup>

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.<sup>5</sup>

### **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.<sup>6</sup>

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.<sup>7</sup> Current law specifies what must be addressed in a standard care arrangement, including a process for consultation with a collaborating physician or podiatrist and a plan for coverage in instances of emergency or planned absences. The bill eliminates the requirement that a standard care arrangement contain both of the following:

(1) A procedure for regular review of referrals by the nurse to other health care professionals and the care outcomes for a random sample of all patients seen by the nurse;

(2) A policy for care of infants up to age one and recommendations for collaborating physician visits for children from birth to age three, if the nurse regularly provides services to infants.

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<sup>4</sup> R.C. 4723.43.

<sup>5</sup> R.C. 4723.43.

<sup>6</sup> R.C. 4723.431.

<sup>7</sup> R.C. 4723.431.

Existing law also 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 nurse's employer.<sup>8</sup>

### **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 the physician or podiatrist terminates the collaboration before the standard care arrangement expires. In that case, all of the following apply:

(1) The collaborating physician or podiatrist must give the nurse written or electronic notice of the termination;

(2) The nurse must notify the Board of Nursing of the termination as soon as practicable by submitting to the Board a copy of the notice of termination;

(3) The 120-day period runs from the date the nurse submits the notice of termination.<sup>9</sup>

If a collaboration terminates because of the death of the collaborating physician or podiatrist, the nurse must notify the Board of the death as soon as practicable. The bill allows the nurse to continue to practice under the existing standard care arrangement without a collaborating physician or podiatrist for not more than 120 days after notifying the Board.

### **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.<sup>10</sup>

### **Psychiatric clinical nurse specialists**

Under existing law, a clinical nurse specialist who does not have prescriptive authority and whose specialty is mental health or psychiatric mental health may practice without a standard care arrangement as long as the nurse practices in collaboration with one or more physicians. If the nurse has prescriptive authority, the

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<sup>8</sup> R.C. 4723.431.

<sup>9</sup> R.C. 4723.431(E) and R.C. 4731.27.

<sup>10</sup> R.C. 4723.431.

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.<sup>11</sup>

The bill instead requires that each psychiatric clinical nurse specialist enter into a standard care arrangement with a collaborating physician, but provides that a physician collaborating with a psychiatric clinical nurse specialist 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.<sup>12</sup>

### **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.<sup>13</sup>

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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<sup>11</sup> R.C. 4723.431(D).

<sup>12</sup> R.C. 4723.431(D).

<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup> However, it retains or modifies 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.<sup>16</sup>

### **Controlled substances**

As noted above, current law allows an APRN to prescribe a schedule II controlled substance only under certain conditions **or** from specified locations. These conditions include all of the following: (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 bill instead permits the patient's initial prescription to have been issued by any physician, rather than only the APRN's collaborating physician. The bill also authorizes the APRN to prescribe an amount for the patient's use in a single, 72-hour period, rather than a 24-hour period.

Under existing law, the 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 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.)

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<sup>14</sup> R.C. 3719.06 and 4723.481.

<sup>15</sup> R.C. 4723.484 (repealed) and 4723.485 (repealed).

<sup>16</sup> R.C. 4723.50.



The bill also maintains existing provisions prohibiting a nurse from (1) personally furnishing to a patient a schedule II controlled substance or (2) prescribing a schedule II controlled substance from a convenience care clinic.<sup>17</sup>

### **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.<sup>18</sup>

### **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 that is not a controlled substance.<sup>19</sup>

### **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.<sup>20</sup> 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.<sup>21</sup>

### **APRN 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

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<sup>17</sup> R.C. 3719.06 and 4723.481.

<sup>18</sup> R.C. 4723.151.

<sup>19</sup> R.C. 4723.481.

<sup>20</sup> R.C. 4723.482.

<sup>21</sup> R.C. 4723.24.



must issue or deny a certificate of authority not later than 60 days after receiving the application.<sup>22</sup>

### **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.<sup>23</sup>

### **Renewals**

The bill requires that an APRN license and RN license each be renewed separately.<sup>24</sup> 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.<sup>25</sup>

### **Inactive status – APRNs**

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.<sup>26</sup> This is similar to current law which provides that if an RN license is classified

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<sup>22</sup> R.C. 4723.41 and 4723.42.

<sup>23</sup> R.C. 4723.08.

<sup>24</sup> R.C. 4723.24.

<sup>25</sup> R.C. 4723.24.

<sup>26</sup> R.C. 4723.47.



as inactive, the nurse's certificate of authority is automatically classified as inactive while the RN license remains inactive.<sup>27</sup>

### **APRN 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 instead provides that the nurse's APRN license is lapsed if the RN license lapses for failure to renew.<sup>28</sup>

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.<sup>29</sup>

### **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.<sup>30</sup>

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.<sup>31</sup> 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

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<sup>27</sup> R.C. 4723.47.

<sup>28</sup> R.C. 4723.47.

<sup>29</sup> R.C. 4723.47.

<sup>30</sup> R.C. 4723.03 and 4723.44.

<sup>31</sup> R.C. 4723.99.

lapsed for failure to renew or that has been classified as inactive is guilty of a minor misdemeanor.

The bill also prohibits a person who is not otherwise authorized to prescribe or furnish drugs and therapeutic devices from doing so unless the person holds an APRN license and is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.<sup>32</sup> The bill provides that a person who prescribes or furnishes drugs or devices without holding an APRN license is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.<sup>33</sup>

## **Board of Nursing**

### **Board membership**

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 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.<sup>34</sup>

### **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.<sup>35</sup> Under current law, the Committee consists of four nurses, four physicians, and two pharmacists.

The bill requires that at least four voting 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; however, it requires the Board to cast the deciding vote following a Board meeting.

The bill requires that the Committee meet at least twice per year. The Committee must also develop and submit to the Board at least twice 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

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<sup>32</sup> R.C. 4723.03.

<sup>33</sup> R.C. 4723.99.

<sup>34</sup> R.C. 4723.02.

<sup>35</sup> R.C. 4729.49.



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.<sup>36</sup>

### **Advisory Committee on Advanced Practice Registered Nursing**

The bill establishes an Advisory Committee on Advanced Practice Registered Nursing.<sup>37</sup> The Advisory Committee is responsible for advising the Board on the practice and regulation of APRNs. It may also make recommendations to the 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) Two 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 bill authorizes schools of advanced practice registered nursing and organizations representing APRNs practicing in Ohio to submit recommendations to the Board regarding the Committee's membership. In addition to the eight members required by the bill, the Board may appoint extra members on the Advisory Committee's recommendation.

Initial appointments must be made not later than 60 days after the bill's effective date. Some of the initial appointments are for one year, while others are for two years. Thereafter, each member is to serve a two-year term. Members may be reappointed for one additional term. The bill also provides that five members of the Committee constitute a quorum.

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<sup>36</sup> R.C. 4729.50.

<sup>37</sup> R.C. 4723.493.



## **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.<sup>38</sup>

### **Professional discipline – all nurses**

The Board of Nursing is authorized to impose professional discipline on nurses licensed by the Board. The bill establishes both of the following as additional grounds for professional discipline:

(1) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the U.S. Department of Defense or Department of Veterans Affairs;

(2) The termination or suspension of a certificate of registration to prescribe drugs by the Drug Enforcement Administration of the U.S. Department of Justice.<sup>39</sup>

### **Notice of overdose death**

The bill authorizes a coroner to notify the Board of Nursing and State Dental Board of a drug overdose death. The notice may include any information relating to the drug that resulted in the overdose, including whether it was obtained by prescription and if so, the name of its prescriber. Existing law permits a coroner to notify the State Medical Board of an overdose death and to provide to the Medical Board the name of the physician who prescribed the drug.<sup>40</sup>

### **Board approval of prelicensure nursing education programs and other training programs**

Under current law, an entity seeking to operate as a training program for medication aides, dialysis technicians, or community health workers or a person seeking to operate a prelicensure nursing education program must obtain approval from the Board of Nursing. Law unchanged by the bill requires the Board to deny approval to a training or prelicensure nursing education program if it submits false, misleading, or deceptive statements, information, or documentation in the process of

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<sup>38</sup> R.C. 4723.71.

<sup>39</sup> R.C. 4723.28.

<sup>40</sup> R.C. 313.212.



applying for approval.<sup>41</sup> If the Board proposes to deny approval, it must do so pursuant to an adjudication conducted under the Administrative Procedure Act.<sup>42</sup>

The bill establishes an additional ground upon which the Board may deny program approval. It authorizes the Board to deny approval to a training or prelicensure education program if the program is controlled by a person who controls or previously controlled a program that had its approval withdrawn, revoked, suspended, or restricted by the Board or a board of another jurisdiction that is a member of the National Council of State Boards of Nursing.<sup>43</sup> If the Board proposes to deny approval to a program, it must do so pursuant to an adjudication conducted under the Administrative Procedure Act.

The bill defines control of a program as any of the following:

(1) Holding 50% or more of the outstanding voting securities or membership interest of the program;

(2) In the case of an unincorporated program, having the right to 50% or more of the program's profits or in the event of a dissolution, 50% or more of the program's assets;

(3) In the case of a program that is a for-profit or not-for-profit corporation, having the contractual authority presently to designate 50% or more of its directors;

(4) In the case of a program that is a trust, having the contractual authority presently to designate 50% or more of its trustees;

(5) Having the authority to direct the management, policies, or investments of the program.

### **Consent agreements**

The bill also provides that when the Board acts to deny or grant approval to a program and that action must be taken pursuant to an adjudication conducted under the Administrative Procedure Act, the Board may, in lieu of an adjudication hearing, enter into a consent agreement to resolve the matter. The bill specifies that a consent agreement, when ratified by a vote of a quorum of the board, constitutes the findings and order of the Board with respect to the matter addressed in the agreement. However,

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<sup>41</sup> R.C. 4723.06.

<sup>42</sup> R.C. Chapter 119.

<sup>43</sup> R.C. 4723.06, 4723.66, 4723.74, and 4723.87.



if the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement are of no effect.<sup>44</sup>

## Hearings

Under the bill, in any instance in which the Board must give a program notice of an opportunity for a hearing, the Board is not required to hold the hearing if the program does not timely request it. Instead of the hearing, the Board may adopt, by a vote of a quorum, a final order that contains the Board's findings.<sup>45</sup>

## Permanent action

Whenever the Board denies, suspends, refuses to renew, revokes, or withdraws approval of a program, the Board may specify that its action is permanent. A program subject to permanent action is forever ineligible for approval and the Board must not accept an application for the program's reinstatement or approval.<sup>46</sup>

## Conforming changes

As the bill establishes a separate APRN license that includes prescriptive authority, it makes conforming changes to the laws governing APRNs and other health professionals.<sup>47</sup>

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<sup>44</sup> R.C. 4723.06, 4723.66, 4723.74, and 4723.87.

<sup>45</sup> R.C. 4723.06, 4723.66, 4723.74, and 4723.87.

<sup>46</sup> R.C. 4723.06, 4723.66, 4723.74, and 4723.87.

<sup>47</sup> 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 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).

## **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.<sup>48</sup>

### **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.<sup>49</sup>

### **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.<sup>50</sup>

### **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.<sup>51</sup>

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<sup>48</sup> R.C. 1751.67, 3923.63, 3923.64, and 5164.07.

<sup>49</sup> R.C. 3701.351.

<sup>50</sup> R.C. 2317.02.

<sup>51</sup> R.C. 2921.22.





## **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.<sup>52</sup>

## **Diabetes care in schools**

The bill authorizes a physician assistant or an APRN who is designated as a clinical nurse specialist or certified nurse practitioner to issue an order relating to the diabetes care provided to a student in school. Under current law, a school district or governing authority of a chartered nonpublic school must ensure that each student who has diabetes and is enrolled in the district or school receives appropriate and needed diabetes care in accordance with an order signed by the student's treating physician. The bill maintains existing law regarding diabetes care in schools, but provides that such orders may be issued not only by physicians, but also by physician assistants, clinical nurse specialists, and certified nurse practitioners.<sup>53</sup>

## **Dialysis technicians**

To be eligible for a Board of Nursing-issued certificate to practice as a dialysis technician or dialysis technician intern, the bill specifies that an applicant cannot be a person who is required by law to register as a sex offender.<sup>54</sup>

## **LPN licensure – educational requirements**

Regarding the educational requirements that must be met to be eligible for a license to practice as a licensed practical nurse (LPN), the bill allows an applicant for licensure to submit evidence of having successfully completed a practical nursing course offered or approved by the U.S. Army. The Army course is in addition to the existing law alternatives of completing a nursing education program approved by the

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<sup>52</sup> R.C. 2133.211.

<sup>53</sup> R.C. 3313.7112.

<sup>54</sup> R.C. 4723.75 and 4723.76.



Board of Nursing or one approved by a board that is a member of the National Council of State Boards of Nursing.<sup>55</sup>

### **LPN administration of adult intravenous therapy – training requirements**

Under current law, an LPN seeking authority from the Board of Nursing to administer to an adult intravenous therapy must successfully complete both an approved course of study in the safe performance of the therapy and a minimum of 40 hours of training that includes all of the following elements:

- (1) A curriculum established by the Board in rules;
- (2) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for the management of those complications;
- (3) A testing component that requires the nurse to perform a successful demonstration of intravenous procedures, including all skills needed to perform them safely;
- (4) Any other training or instruction the Board considers appropriate.

The bill instead requires the LPN to complete either (1) a course of study approved by the Board or an agency in another state with similar requirements or (2) a continuing education course or program approved by the Board that contains each of the four elements described above. The bill, however, eliminates the requirement that a minimum of 40 hours be completed.<sup>56</sup>

### **Podiatrist supervision of hyperbaric oxygen therapy**

The bill authorizes a podiatrist to order and supervise hyperbaric oxygen therapy if the podiatrist meets all of the following conditions:

- (1) Is board-certified or board-qualified by the American Board of Foot and Ankle Surgery or the American Board of Podiatric Medicine;
- (2) Orders the therapy only for treatment within the scope of practice of podiatry;
- (3) Has consulted with a physician who has been authorized to perform the therapy by the facility in which the oxygen room or chamber is located;

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<sup>55</sup> R.C. 4723.09.

<sup>56</sup> R.C. 4723.18.



(4) Is certified in advanced cardiovascular life support by a certifying organization recognized by the State Medical Board;

(5) Has documentation of having completed, at a minimum, a 40-hour introductory course in hyperbaric medicine recognized by the American Board of Foot and Ankle Surgery or the Undersea and Hyperbaric Medical Society.

The bill provides that, on the request of the Medical Board, the podiatrist must submit to the Board evidence demonstrating that the podiatrist is certified in advanced cardiovascular life support and has completed the required course in hyperbaric medicine.

When supervising hyperbaric oxygen therapy, the podiatrist must be immediately available while the therapy is performed and a physician must be readily available for consultation in the event a complication occurs that is outside the scope of practice of podiatry.<sup>57</sup>

For the purposes of the bill, hyperbaric oxygen therapy is defined as the administration of pure oxygen in a pressurized room or chamber.

### **Diabetes assessments**

The bill requires the Director of Health to convene meetings with staff of the Departments of Health, Medicaid, and Administrative Services, as well as the Commission on Minority Health, to do all of the following:<sup>58</sup>

--Assess the prevalence of all types of diabetes in Ohio, including disparities in that prevalence among various demographic populations and local jurisdictions;

--Establish and reevaluate goals for each of the agencies to reduce that prevalence;

--Identify how to measure the progress achieved toward attaining the goals;

--Establish and monitor the implementation of plans for each agency to reduce the prevalence of all types of diabetes, improve diabetes care, and control complications associated with diabetes among the populations of concern to each agency;

--Consider any other matter associated with reducing the prevalence of all types of diabetes in Ohio that the Director determines to be appropriate; and

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<sup>57</sup> R.C. 4731.51, 4731.511, and 4761.11.

<sup>58</sup> R.C. 3701.138(A) and (B).



--Collect the information needed to prepare biennial reports required by the bill (see "**Biennial reports**," below).

The Director must convene the meetings at his or her discretion, but not less than twice each calendar year.

### **Biennial reports**

The bill requires the Director of Health, not later than January 31 of each even-numbered year beginning in 2018, to submit a report to the General Assembly addressing or containing all of the following for the two-year period preceding the report's submission:<sup>59</sup>

--The results of the assessments required by the bill;

--The progress each agency has made toward achieving the goals and implementing the plans required by the bill;

--An assessment of the health and financial impacts that all types of diabetes have had on the state and local jurisdictions and on each of the agencies covered by the bill;

--A description of the efforts the agencies have taken to coordinate programs intended to prevent, treat, and manage all types of diabetes and associated complications;

--Recommendations for legislative policies to reduce the impact that diabetes, pre-diabetes, and complications from diabetes have on Ohio citizens, including specific action steps that could be taken, the expected outcomes of the action steps, and benchmarks for measuring progress toward achieving the outcomes;

--A budget proposal that identifies the needs and resources required to implement the recommendations, as well as estimates of the costs to implement the recommendations; and

--Any other information concerning diabetes prevention, treatment, or management in Ohio that the Director determines to be appropriate.

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<sup>59</sup> R.C. 3701.138(C).

## Agency-specific assessments

Regarding the assessments of the health and financial impacts that all types of diabetes have had on each of the agencies covered by the bill, the bill requires the assessments to include all of the following:<sup>60</sup>

--A list and description of each diabetes prevention or control program the agency administers, the number of individuals with each type of diabetes and their dependents who are impacted by each program, the expenses associated with administering each program, and the funds appropriated for each program, along with each funding source;

--A comparison of the expenses of the diabetes prevention or control programs with the expenses the agency incurs in administering programs to reduce the prevalence of other chronic diseases and conditions; and

--An evaluation of the benefits that have resulted from each diabetes prevention or control program.

### No requirement to establish new programs

The bill specifies that none of its provisions require the agencies covered by the bill to establish programs for diabetes prevention, treatment, and management that had not been initiated or funded before the bill's effective date.<sup>61</sup>

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## HISTORY

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

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<sup>60</sup> R.C. 3701.138(D).

<sup>61</sup> R.C. 3701.138(E).

