



*Alan Van Dyne*

*Final Analysis*  
*Legislative Service Commission*

**Am. Sub. H.B. 241**  
123rd General Assembly  
(As Passed by the General Assembly)

- Reps.** Hollister, Womer Benjamin, Grendell, R. Miller, Terwilleger, Ogg, Opfer, Mead, Jones, Sulzer, Sutton, Perz, Williams, Allen, Hartnett, Callender, D. Miller, Hood, Young, Bender, Householder, Smith, Carey, Van Vyven, Schuring, Olman, Padgett, Maier, DePiero, Barnes, Damschroder, Mottley, Schuler, Buehrer, Corbin, Boyd, Barrett, Salerno, Goodman, Jerse, Flannery, Sykes, Wilson, Metelsky, Healy, Perry, Kilbane
- Sens.** Kearns, Spada, Prentiss, Blessing, Hagan, Drake, Gardner, Herington, Wachtmann, DiDonato, Cupp, Mumper, Carnes, Espy, Latta, Latell, Hottinger, Brady, Furney, McLin, Mallory, Watts, Armbruster

**Effective date: May 17, 2000**

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**ACT SUMMARY**

- Provides that the Board of Nursing may issue a certificate to prescribe drugs and therapeutic devices to a certified nurse-midwife (CNM), certified nurse practitioner (CNP), or clinical nurse specialist (CNS), who completes a course of study in advanced pharmacology.
- Creates the Committee on Prescriptive Governance and requires it to develop recommendations on which the Board of Nursing must base its rules governing the formulary of drugs and therapeutic devices that may be prescribed by a nurse, the externship a nurse must complete after receiving an initial certificate to prescribe, the manner in which the nurse is to be supervised during the externship, and the manner in which collaboration is to occur after the externship is successfully completed.
- Includes in a nurse's authority to prescribe the authority to furnish antibiotics, antifungals, scabicides, contraceptives, and prenatal vitamins to patients at local health departments, federally funded primary care clinics, and nonprofit health care clinics or programs.

- Accelerates termination of the pilot programs for use of advanced practice nurses in medically underserved areas.
- Provides that, of the eight members of the Board of Nursing who are registered nurses, at least one must be a CNM, CNP, CNS, or certified registered nurse anesthetist.
- Subjects a nurse to discipline for failing to return to the Board of Nursing a license or certificate that has lapsed or been suspended.
- Provides that nurses are prohibited from prescribing drugs and devices to perform or induce an abortion or from otherwise performing or inducing an abortion.

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## CONTENT AND OPERATION



## Overview

Am. Sub. S.B. 154 of the 121st General Assembly recognized three advanced nursing specialties: certified registered nurse anesthetist (CRNA), certified nurse practitioner (CNP), and clinical nurse specialist (CNS) and changed the prior designation "nurse-midwife" to "certified nurse-midwife" (CNM). To practice one of the four specialties, an individual must be a registered nurse and obtain a certificate of authority from the Board of Nursing by meeting specified graduate-level education requirements and the certification and examination requirements of national organizations that credential nurses in advanced practices. In addition to the four nursing specialties, three time-limited pilot programs using "advanced practice nurses" are being operated in medically underserved areas of Ohio. After completing pharmacology training, a nurse participating or seeking to participate in one of the pilot programs may apply for approval to prescribe drugs and therapeutic devices.

The act creates procedures by which a nurse practicing as a certified nurse-midwife, certified nurse practitioner, or clinical nurse specialist may receive authority to prescribe drugs and therapeutic devices in any area of Ohio. A certified registered nurse anesthetist is not eligible to receive prescriptive authority. A nurse who is prescribing drugs in one of the pilot programs will be permitted to continue practicing for approximately three years, at which time the pilot programs are abolished.

The prescriptive authority established by the act is identified by receipt of a "certificate to prescribe." After receiving the certificate by completing pharmacology training, the nurse must complete an externship. During the externship, the nurse practices under the *supervision* of one or more physicians. After the externship, the nurse practices in *collaboration* with one or more physicians or podiatrists. During and after the externship, a nurse must prescribe in accordance with requirements and limits specified by the act.

## Certificates to prescribe

(secs. 4723.06, 4723.48, and 4723.50)

The act expressly requires the Board of Nursing to issue and renew certificates to prescribe. Rules governing the process are to be adopted by the Board not later than 20 months after the act's effective date. The rules must be adopted in accordance with recommendations submitted by the Committee on Prescriptive Governance, a committee the act creates consisting of nurses, physicians, and pharmacists, including representatives of their respective licensing boards.

### **Formulary**

(secs. 4723.06 and 4723.50)

The types of drugs and therapeutic devices that may be prescribed are to be established in the Board's rules. The act provides that the formulary may contain controlled substances. The Board is required to make an annual edition of the formulary available to the public either in printed form or by electronic means. As soon as possible after any revision of the formulary becomes effective, the Board must make the revision available in printed or electronic form.

### **Pharmacology training**

(sec. 4723.482(B))

To qualify for an initial certificate to prescribe, the act requires that an applicant successfully complete instruction in advanced pharmacology and related topics. The instruction must be obtained not longer than three years before the application for the certificate to prescribe is filed. It must be obtained through a course of study consisting of planned classroom and clinical study that is approved by the Board of Nursing in accordance with standards established in rules. The content of the instruction must be specific to the applicant's nursing specialty and include all of the following:

- (1) A minimum of 30 contact hours of training in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the prevention of illness and maintenance of health;
- (2) Training in the fiscal and ethical implications of prescribing drugs and therapeutic devices;
- (3) Training in the state and federal laws that apply to the authority to prescribe;
- (4) Any additional training required in rules adopted by the Board.

### **Externship**

(secs. 4723.48, 4723.484, 4723.50, and 4731.27)

The initial certificate to prescribe that the Board issues to an applicant is to be issued as an externship certificate. Under the certificate, the nurse is authorized to obtain experience in prescribing drugs and therapeutic devices by participating in an externship that evaluates the nurse's competence, knowledge, and skill in

pharmacokinetic principles and their clinical application to the specialty being practiced. During the externship, the nurse may prescribe drugs and therapeutic devices only when one or more physicians are providing supervision.

Supervision must be provided by the physician in accordance with standards and procedures established in rules adopted by the Board. The rules must specify standards and procedures for supervision that is provided by working with the nurse and supervision that is provided by making timely reviews of the records of patients treated by the nurse. The act specifies that the manner in which a nurse is supervised may vary according to the location where the nurse is practicing and with the nurse's level of experience.

Standards and procedures for the appropriate conduct of an externship are to be established in rules adopted by the Board. Evaluation of the nurse's participation in an externship must be made according to the rules. Regardless of the method of evaluation used, the act specifies that a nurse cannot be required to participate in an externship longer than 1,800 hours.

The act requires that the physician responsible for evaluating the externship provide the State Medical Board with the name of the nurse. The physician also must notify the Board if the externship is terminated for any reason. Likewise, the nurse must inform the Board of Nursing if the externship is terminated.

An externship certificate is to be valid for not more than one year, unless earlier suspended or revoked by the Board of Nursing. The certificate may be extended for an additional year if the holder submits to the Board evidence of continued participation in an externship.

### **Collaboration**

(secs. 4723.43, 4723.431, 4723.48, and 4723.50)

After completing the externship, a nurse who holds an externship certificate may apply for a new certificate to prescribe. On receipt of the new certificate, the nurse may prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists. The collaboration requirements that apply to the nurse's prescriptive authority are based on the collaboration requirements that apply to the nurse's practice as a CNM, CNS, or CNP. Under collaboration, a nurse and the nurse's collaborating physicians or podiatrists are required to enter into a "standard care arrangement," which is a written, formal guide for planning and evaluating a patient's health care. The act requires that the Board of Nursing adopt rules establishing criteria for the prescriptive authority components of a standard care arrangement. The rules must include (1) quality assurance standards, (2) standards for periodic review by a collaborating physician or

podiatrist of the records of patients treated by the nurse, (3) acceptable travel time between the physician and nurse when prescribing, and (4) any other criteria recommended by the Committee on Prescriptive Governance. If a collaborating physician or podiatrist enters into standard care arrangements with more than three nurses who hold certificates to prescribe, the physician or podiatrist is prohibited from collaborating at the same time with more than three of the nurses in the prescribing component of their practices.

Under continuing law, a standard care arrangement is not required for a CNS specializing in mental health or psychiatric mental health. If the CNS receives a certificate to prescribe, however, the act requires that there be a standard care arrangement with the collaborating physician addressing the prescribing components of the nurse's practice.

With respect to CRNAs, the act specifies that a certificate to prescribe is not needed for the nurse to provide the anesthesia care the nurse is authorized to provide under current law.

**Scope of authority to prescribe**

(secs. 3719.06, 4723.151, and 4723.481)

The act establishes requirements that must be followed when a CNM, CNP, or CNS prescribes drugs and therapeutic devices. A nurse who fails to comply is subject to disciplinary action by the Board, as well as criminal penalties. The act specifies that the preexisting law that prohibits a nurse from making medical diagnosis, prescribing medical measures, and practicing medicine does not prohibit a nurse from prescribing drugs and therapeutic devices in accordance with the act. Under the act, the nurse is subject to all of the following:

(1) The nurse cannot prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established by the Board in rules.

(2) The nurse's prescriptive authority cannot exceed the prescriptive authority of the collaborating physician or podiatrist.

(3) The nurse may prescribe a Schedule II controlled substance only for a patient with a terminal condition, only if the nurse's collaborating physician initially prescribed the substance, and only in an amount for use in a single, 24-hour period. The nurse is not authorized to prescribe a Schedule II controlled substance in collaboration with a podiatrist.

(4) The nurse may personally furnish to a patient a sample of any drug or therapeutic device included in the types of drugs and devices listed on the formulary. The amount of the sample being furnished cannot exceed a 72-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a 72-hour supply, in which case the nurse may furnish the sample in the packaged amount. The nurse may not impose a charge for the sample or for furnishing it. No sample of a controlled substance may be personally furnished by the nurse to a patient.

(5) The nurse may personally furnish to a patient a complete or partial supply of antibiotics, antifungals, scabicides, contraceptives, or prenatal vitamins. This authority cannot be exercised in any location other than a local health department, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program. The nurse must comply with all safety standards for personally furnishing supplies of drugs and devices, as established in rules adopted by the Board.

### **Application process**

(secs. 4723.48, 4723.482, and 4723.484)

A CNM, CNP, or CNS seeking authority to prescribe drugs and therapeutic devices must file a written application with the Board of Nursing. The Board must issue a certificate to each applicant who meets the requirements specified in the act. An applicant for an initial certificate to prescribe must include with the application all of the following: (1) evidence of holding a current, valid certificate of authority to practice as a CNM, CNP, or CNS, (2) evidence of successfully completing the required instruction in advanced pharmacology and related topics, (3) a fee of \$50, and (4) any additional information the Board requires in the rules it adopts under the act.

To be eligible for a certificate to prescribe after an initial certificate was issued as an externship certificate, an applicant must include with the application all of the following: (1) a statement from a supervising physician attesting to the applicant's successful completion of the externship, (2) a fee of \$50, and (3) any additional information the Board requires by rule.

### **Renewal process**

(sec. 4723.485)

A certificate to prescribe, other than an externship certificate, is valid for two years, unless otherwise provided for in rules adopted by the Board or earlier suspended or revoked. The Board's rules must include procedures for renewal and

a renewal schedule. The Board may renew a certificate to prescribe if the holder submits all of the following:

(1) Evidence of having completed during the previous two years at least 12 hours of continuing education in advanced pharmacology, or, if the certificate has been held for less than a full renewal period, the number of hours required by the Board in rules. The pharmacology education must be received from an accredited institution recognized by the Board and is in addition to any other continuing nursing education that the nurse must complete.

(2) A fee of \$50;

(3) Any additional information the Board requires by rule.

### **Grandfathering**

(sec. 4723.483)

In the case of a person who received a certificate of authority to practice as a CNM or CNP through the provisions of continuing law that exempt them from having to hold a graduate degree in a nursing specialty or related field, the act prohibits the Board of Nursing from issuing a certificate to prescribe to the nurse unless both of the following apply:

(1) The nurse submits an application for the certificate to prescribe not later than one year after the Board adopts initial rules for issuing certificates to prescribe.

(2) The nurse submits evidence of having obtained not less than ten years of clinical experience in the practice of a nursing specialty, three years of which were obtained in the five-year period immediately preceding the date the application is submitted.

### **Advanced practice nurse pilot programs**

(secs. 4723.48(B), 4723.51 to 4723.59 and 5111.74 (repealed); Sections 3 to 6)

The act accelerates the termination of the three advanced practice nurse pilot programs. Under prior law, the termination was scheduled to occur January 1, 2010. The act provides for the programs to expire three years and eight months after its effective date.

If an advanced practice nurse has prescriptive authority on the act's effective date and the nurse applies for a certificate to prescribe, the act provides for the nurse to be given the certificate without having to complete another

pharmacology training program and without being required to complete an externship. A nurse who enters the pilot programs after the act's effective date will be required to complete the pharmacology training and externship requirements. The number of positions for advanced practice nurses in the pilot programs cannot be increased after the act's effective date.

Prior law included a reference to advanced practice nurses who participated in the Butler County Fair Share Demonstration Project. The project, which is no longer being conducted, was created to study the viability of using managed care techniques in the Medicaid program. The act eliminates the statute that created the project.

### **Penalties**

(secs. 3719.06 and 4723.44; 3719.99 and 4723.99, not in the act)

Under the act, a CNM, CNP, or CNS is prohibited from (1) prescribing drugs or therapeutic devices unless the nurse holds a current, valid certificate to prescribe issued by the Board or (2) if the nurse holds a current, valid certificate to prescribe, prescribing drugs and therapeutic devices in a manner that does not comply with the act. Whoever violates these provisions may be fined \$500 or imprisoned not more than 90 days, or both. If a nurse violates the act's restrictions pertaining to controlled substances, the nurse may, pursuant to the controlled substances law, be fined \$500 or imprisoned not more than 60 days, or both.

### **Validity of certificate to prescribe**

(sec. 4723.47)

Under the act, if a nurse's certificate of authority to practice nursing as a CNM, CNP, or CNS expires for failure to renew, the nurse's certificate to prescribe is automatically lapsed until the certificate of authority is reinstated. If a nurse's certificate of authority becomes inactive, the nurse's certificate to prescribe is automatically lapsed until the certificate of the authority becomes active. If a nurse's certificate of authority is revoked or suspended, the nurse's certificate to prescribe is automatically revoked or suspended. If a restriction is placed on a nurse's certificate of authority, the same restriction is placed on the nurse's certificate to prescribe while the certificate of authority remains restricted.

### **Revisions to the drug, prescription, and pharmacy laws**

(secs. 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, 2925.36, 3719.06, 3719.81, 4729.01, and 4729.51)

The act amends certain criminal and pharmacy statutes that pertain to selling, possessing, or trafficking in drugs and controlled substances and furnishing sample drugs so that a CNM, CNP, CNS, or advanced practice nurse may exercise the authority to prescribe granted by the act without violating those statutes.

**Committee on Prescriptive Governance**

(secs. 4723.49, 4723.491, 4723.492, and 4723.50)

The act creates the Committee on Prescriptive Governance to develop recommendations regarding the authority of a CNS, CNM, or CNP to prescribe drugs and therapeutic devices. The Committee is required to submit recommendations to the Board of Nursing as necessary for the Board to fulfill its duty under the act to adopt rules. The recommendations must be submitted not later than 14 months after the act's effective date. At the Board's request, the Committee must reconsider a recommendation and resubmit it accordingly.

The Committee is to consist of the following members:

(1) Four nurses, to be appointed by the Board of Nursing, including one CNM, one CNP, one CNS, and a member of the Board of Nursing who at a minimum is a registered nurse.

(2) Four physicians, to be appointed by the State Medical Board. The members must be appointed in such a manner that the Committee at all times includes at least two physicians who collaborate with a CNM, CNP, or CNS; one physician certified in the medical specialty of family practice, and one member of the State Medical Board. If the family practice physician or Board member is also a collaborating physician, the member may be counted both as a collaborating physician and as a family practice physician or Board member.

(3) Two pharmacists, to be appointed by the State Board of Pharmacy, including one Board member and one pharmacist who is actively practicing in Ohio as a clinical pharmacist.

The Committee is required to select a chairperson from its members who are nurses or collaborating physicians. The Committee may select a new chairperson at any time.

Five members of the Committee constitute a quorum. The clinical pharmacist member may participate in any meeting, but is to be included as a voting member only when the committee is considering the composition of the formulary of drugs and devices a nurse may prescribe, the manner in which a nurse may personally furnish to patients drugs packaged as samples and partial or

complete supplies of other drugs and devices, and recommendations to be given to the Board of Nursing for use in adopting rules pertaining to these matters.

Recommendations for making initial appointments and filling vacancies may be submitted to the boards by professional nursing, medical, and pharmacy associations and by individuals. Each board must appoint members based on the recommendations submitted. If no recommendations are received or an insufficient number are submitted, the appropriate board must proceed on its own advice. If the State Medical Board or State Board of Pharmacy fails to fill a vacancy, the Board of Nursing is required to make the appointment. If the Board of Nursing fails to make an appointment, the State Medical Board must make the appointment after consulting with the State Board of Pharmacy.

### **Terms of office**

Initial appointments to the Committee must be made by the appropriate board not later than 60 days after the act's effective date. After staggered initial terms, terms are for three years, with each term ending on the same day of the same month as the term it succeeds. When a member's term expires, a successor is to be appointed who has the qualifications the vacancy requires. Any member appointed to fill a vacancy occurring prior to the expiration of a term holds office for the remainder of that term. A member continues in office after the member's term expires until the earlier of the date the member's successor takes office or until a 60-day period has elapsed. A member may be reappointed.

Committee members serve without compensation but receive payment for their actual and necessary expenses incurred in the performance of their official duties. The expenses are to be paid by the Board of Nursing.

### **Board of Nursing membership**

(sec. 4723.04)

Under current law, the Board of Nursing is composed of eight registered nurses, four licensed practical nurses, and one consumer representative. The act provides that of the members who are registered nurses, at least one must hold a valid certificate of authority to practice nursing as a CRNA, CNM, CNP, or CNS.

### **Certificates of authority to practice as a CRNA, CNM, CNP, or CNS**

(secs. 4723.41 and 4723.42)

Under continuing law, the Board of Nursing is required to issue or deny a certificate of authority to practice nursing as a CRNA, CNM, CNP, or CNS not

later than 60 days after receiving all required documentation from an applicant. The act eliminates the prior law requirement that the Board provide an applicant with written notice, by mail and within 15 days, of any required documents that have not been submitted.

Under continuing law, except in specified circumstances, a nurse can receive a certificate of authority only if the nurse holds a post-baccalaureate degree in a nursing specialty or a related field. The act modifies this requirement to allow for receipt of any graduate degree. For example, some graduate nursing programs confer only doctorates without first issuing a master's degree.

### **General collaboration requirements**

(secs. 4723.02(K), 4723.43, 4723.431, 4731.22(B), and 4731.27)

Prior law required that each physician or podiatrist who collaborates with a CNM, CNP, or CNS hold an Ohio license to practice medicine or podiatry and be practicing in Ohio. The act specifies that the physician or podiatrist must be actively engaged in "direct clinical practice" and provides that the physician or podiatrist may hold a license from another jurisdiction, as long as the physician or podiatrist is authorized to practice in Ohio.

Prior law required the collaborating physician or podiatrist "to practice" in accordance with the standard care arrangement. The act instead requires that the physician or podiatrist fulfill the responsibilities of collaboration, as specified in the arrangement. Failure to collaborate properly continues to be a reason for which the State Medical Board may impose disciplinary actions. With respect to a physician who participates in one of the advanced practice nurse pilot programs, prior law authorized the Board to discipline the physician for failing to perform the responsibilities agreed to in the prescribing components of a nurse's practice. The act provides that the Board may discipline a physician for failing to perform the responsibilities of collaboration. Therefore, the Board's disciplinary authority is extended to a physician who fails to collaborate appropriately with a nurse who is not prescribing drugs.

### **Cooperation in investigations**

(secs. 4723.432 and 4731.27)

The act requires that a CNM, CNP, or CNS cooperate with the State Medical Board in any investigation the Board conducts with respect to a physician or podiatrist who collaborates with the nurse. With respect to a CRNA, a nursing specialty that requires supervision of the nurse by a physician, podiatrist, or dentist rather than collaboration, the act provides that the nurse must cooperate with the

State Medical Board or State Dental Board in any investigation conducted with respect to a supervising physician, podiatrist, or dentist. The act similarly requires a CNM, CNP, CNS, or CRNA to cooperate with the State Medical Board or State Dental Board in any investigation of the nurse's unauthorized practice of medicine or dentistry. In turn, the act requires that a physician or podiatrist cooperate with the Board of Nursing in any investigation the Board conducts with respect to a CNM, CNP, CNS, or CRNA in collaboration with or under the supervision of the physician or podiatrist.

**The practice of nursing as a registered nurse and licensed practical nurse**

(secs. 4723.02 and 4723.17)

Continuing law provides that the practice of nursing as a registered nurse or licensed practical nurse includes administering medications, treatments, and executing regimens. Prior law required that the actions be prescribed by physicians, dentists, optometrists, and other specified individuals. The act provides that the actions must be authorized by an individual who is authorized to practice in Ohio and is acting within the course of the individual's professional practice, which includes a CNM, CNP, or CNS.

**Lapsed and suspended licenses and certificates**

(sec. 4723.28(B)(30) and (I))

Continuing law authorizes the Board of Nursing to deny, revoke permanently, suspend, or place restrictions on a nurse's license or certificate if the Board determines that the nurse has committed one or more acts specified in statute. Under the act, a nurse is required to, and may be disciplined for failing to, return to the Board a license or certificate that has lapsed or been suspended or revoked.

**Performing or inducing abortions**

(secs. 4723.151, 4723.28, 4723.44, 4723.50, 4723.52, 4723.563, and 4723.58)

The act expressly prohibits a nurse from (1) prescribing a drug or device to perform or induce an abortion or (2) otherwise performing or inducing an abortion. The prohibition applies to the following:

- (1) Discipline of registered nurses and licensed practical nurses;
- (2) Restrictions on the practice of nursing as a CNM, CNP, CNS, or certified registered nurse anesthetist;

(3) Adoption of rules establishing the formulary of drugs and therapeutic devices that a CNM, CNP, or CNS may prescribe;

(4) Conduct of the advanced practice nurse pilot programs.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-10-99	pp. 285-286
Reported, H. Health, Retirement & Aging	06-23-99	p. 919
Passed House (93-2)	06-28-99	pp. 1062-1063
Reported, S. Health, Human Services & Aging	01-12-00	p. 1301
Passed Senate (33-0)	01-12-00	pp. 1305-1306
House concurred in Senate amendments (92-1)	01-19-00	pp. 1521-1522

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