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*Bill Analysis*  
*Legislative Service Commission*

## **Sub. H.B. 241**

123rd General Assembly  
(As Passed by the House)

**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**

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### **BILL 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 meets the bill's requirements and has successfully completed a course of study in advanced pharmacology.
- Creates the Joint Formulary Committee to establish a formulary of drugs and therapeutic devices that may be prescribed by nurses who hold certificates to prescribe and to adopt rules regarding standard care arrangements between nurses and collaborating physicians or podiatrists.
- Provides that each CNM, CNP, or CNS who holds a certificate to prescribe must prescribe in accordance with the formulary established by the Committee and in collaboration with a physician or podiatrist.
- Repeals a provision that required the Board of Nursing to notify an applicant to practice nursing as a CNM, CNP, CNS, or certified registered nurse anesthetist that required documents are needed to make an application complete.
- Provides that, of the eight members of the Board of Nursing who are registered nurses, one must hold a valid certificate of authority to practice nursing as a CNM, CNP, or CNS.

- 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 the practice of nursing as a registered nurse or licensed practical nurse includes administering medications, treatments, and executing regimens authorized by an individual who is authorized to practice in Ohio and is acting within the course of the individual's professional practice.
- Provides that nurses are prohibited from prescribing drugs and devices to perform or induce an abortion or otherwise performing or inducing an abortion.

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## CONTENT AND OPERATION

### Background

Am. Sub. S.B. 154 of the 121st General Assembly recognized three advanced nursing specialties: certified nurse practitioner (CNP), certified registered nurse anesthetist, and clinical nurse specialist (CNS) and changed the

prior designation "nurse-midwife" to "certified nurse-midwife" (CNM). To practice in one of these specialties, an individual must be a registered nurse and obtain a certificate of authority from the Board of Nursing by meeting specified graduate-level educational requirements and the certification and examination requirements of certain national organizations that credential nurses in advance practices.

**Authority to prescribe drugs and therapeutic devices**

(secs. 4723.06, 4723.07, 4723.08, 4723.28, and 4723.48)

The bill authorizes the Board of Nursing to issue and renew a certificate to prescribe drugs and therapeutic devices to a CNM, CNP, or CNS who, within the three-year period prior to applying for the certificate, successfully completed a course of study in advanced pharmacology. The course of study must have been completed through planned classroom and clinical study in advanced pharmacology that (1) meets the course requirements discussed below, including a minimum of 30 contact hours of training in advanced pharmacology, and (2) is approved pursuant to rules adopted by the Board. A CNM, CNP, or CNS who holds a certificate to prescribe drugs and therapeutic devices must prescribe in accordance with the formulary established by the Joint Formulary Committee and is subject to discipline for failing to prescribe in accordance with the formulary and for prescribing, dispensing, or administering drugs and therapeutic devices other than for legal and legitimate therapeutic purposes.

An applicant for a certificate to prescribe is required to file with the Board a written application that contains all of the following:

- (1) Evidence that the applicant holds a current, valid certificate of authority to practice as a CNM, CNP, or CNS;
- (2) Evidence of having successfully completed the advanced pharmacology instruction;
- (3) On a form approved by the Board and included with the application, a statement by a physician who is collaborating with the applicant attesting that, after successfully completing the advanced pharmacology instruction and for a period of not less than one year, the applicant has demonstrated competence, knowledge, and skill in pharmacokinetic principles and their clinical application to the nurse's specialty consistent with the advanced pharmacology instruction;
- (4) A \$50 application fee;
- (5) Any additional information the Board requires pursuant to Board rules.

The Board may waive the requirement of a collaborating physician's statement if a physician who collaborates with the applicant recommends on a form approved by the Board that the applicant be granted a certificate to prescribe and either (1) as of the bill's effective date, the applicant has three consecutive years of clinical experience, within the five-year period prior to the bill's effective date, as a registered nurse practicing in Ohio as a clinical nurse specialist, nurse-midwife, or nurse practitioner, or (2) the applicant submits to the Board evidence that the applicant is authorized in another jurisdiction to prescribe drugs and therapeutic devices and has three consecutive years of clinical experience, within the five-year period prior to the date an application is filed, as a registered nurse practicing in another state as a clinical nurse specialist, nurse-midwife, or nurse practitioner.

The Board may waive the requirement that the advanced pharmacology instruction be completed within the three-year period prior to application for a certificate to prescribe if the applicant submits to the Board evidence that the applicant is authorized to prescribe drugs and therapeutic devices in another state and has been prescribing under that authority.

The course of study in advanced pharmacology must include all of the following:

- (1) Pharmacokinetic principles and clinical application;<sup>1</sup>
- (2) Use of drugs and therapeutic devices in the prevention of illness and the maintenance of health;
- (3) A content specific to the nursing specialty of the CNM, CNP, and CNS;
- (4) The fiscal implications of prescribing drugs and therapeutic devices;
- (5) The ethical implications of prescribing drugs and therapeutic devices;
- (6) The state and federal laws regulating all aspects of pharmacology;
- (7) Any additional requirement required pursuant to Board rules.

The Joint Formulary Committee created by the bill is required to establish, after consulting with the Board of Nursing, State Medical Board, and State Board of Pharmacy, a formulary and any supplements to the formulary listing the classes

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<sup>1</sup> "Pharmacokinetics" is the branch of pharmacology that studies the action of a drug in the body, including the processes of absorption, distribution, metabolism, and elimination (Random House Compact Unabridged Dictionary, 2nd edition, 1996).

of drugs and therapeutic devices that may be prescribed by a CNM, CNP, or CNS who holds a certificate to prescribe.<sup>2</sup> The formulary may limit the classes of drugs and therapeutic devices that may be dispensed by a nurse who holds a certificate to prescribe, but the formulary cannot prohibit the nurse from personally furnishing samples of drugs listed on the formulary. The formulary may include controlled substances. The Board of Nursing must publish the formulary and any supplements to the formulary annually.

The bill requires the Board to adopt rules that do the following: specify the information the Board may require for issuance and renewal of a certificate to prescribe; establish standards and procedures for issuance and renewal of a certificate to prescribe; and establish requirements for Board approval of classroom and clinical study in advanced pharmacology.

A certificate to prescribe may be renewed by the Board every two years according to a schedule adopted by the Board if the certificate holder submits to the Board evidence of having completed during the previous two years at least 12 hours of continuing education in advanced pharmacology from an accredited institution recognized by the Board, the \$50 renewal fee, and any additional information the Board requires in its rules. In the case of a certificate to prescribe that was issued for less than two years, the applicant is required to submit evidence of having completed the number of hours specified in Board rules. The continuing education in advanced pharmacology required to renew a certificate to prescribe is in addition to the continuing education required for renewal of a certificate of authority to practice nursing as a CNM, CNP, or CNS.

### **Prohibitions**

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

Under the bill, a nurse who is a CNM, CNP, or CNS is prohibited from doing the following:

(1) Prescribing drugs or therapeutic devices unless the nurse holds a current, valid certificate to prescribe issued by the Board;

(2) If the nurse holds a current, valid certificate to prescribe, prescribing drugs and therapeutic devices that are not listed on the formulary established by the Joint Formulary Committee;

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<sup>2</sup> See "**Creation of Joint Formulary Committee.**"

(3) Prescribing a Schedule II controlled substance for a patient unless the nurse's collaborating physician or podiatrist has initially prescribed the Schedule II controlled substance for the patient.

Whoever violates the provisions in (1) and (2) may be fined \$500 or imprisoned not more than 90 days, or both. Whoever violates (3) may be fined \$500 or imprisoned not more than 60 days, or both.

**Supervision and collaboration**

(secs. 4723.02, 4723.43, and 4723.431)

Under current law, a CNP or CNS practices the nurse's specialty in collaboration with physicians and podiatrists. A CNM practices in collaboration with physicians. "Collaboration" means that the nurse and the physician or podiatrist have entered into a standard care arrangement and the physician or podiatrist is continuously available to communicate with the nurse either in person, or by radio, telephone, or other form of telecommunication.<sup>3</sup> A CNM, CNP, or CNS is authorized to practice only in accordance with the standard care arrangement.

Under the bill, a CNP or CNS who holds a certificate to prescribe may prescribe drugs and therapeutic devices in collaboration with a physician or podiatrist. A CNM who holds a certificate to prescribe may do so in collaboration with a physician. A collaborating physician or podiatrist may collaborate with no more than three nurses who hold certificates to prescribe at a time; however, the physician or podiatrist is not prohibited from entering a standard care arrangement with more than three nurses who hold certificates to prescribe.

The bill specifies that a certified registered nurse anesthetist is not required to obtain a certificate to prescribe in order to provide the anesthesia care authorized by current law.

**Validity of certificate to prescribe**

(sec. 4723.47)

Under the bill, 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

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<sup>3</sup> A standard care arrangement is defined in current law as "a written, formal guide for planning and evaluating a patient's health care that is developed by a collaborating physician or podiatrist and a CNM, CNP, or CNS."

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.

**Amendments to provisions affecting advanced practice nurse pilot programs**

(secs. 3719.81, 4723.52, 4723.56, 4723.561, 4723.57, 4723.58, 4723.59, and 4731.22; Section 6)

Current law provides for the establishment of pilot programs for the use of advanced practice nurses in medically underserved areas. The programs are operated by the schools of nursing at Case Western Reserve University, Wright State University, and the University of Cincinnati. The law authorizing them is repealed effective January 1, 2010. Advanced practice nurses participating in the pilot programs may be authorized to prescribe drugs and therapeutic devices.

Under the bill, approval to prescribe drugs and therapeutic devices granted under the pilot programs is valid for the remainder of the period for which it was granted. Thereafter, each advanced practice nurse given the approval must obtain a certificate to prescribe drugs and therapeutic devices in accordance with the bill's provisions. The Board of Nursing must issue a certificate to prescribe under the bill's provisions to a nurse who holds a certificate to prescribe under the pilot programs and meets the bill's requirements, other than the requirement that the nurse has successfully completed the advanced pharmacology instruction required by the bill.

The bill makes changes to and repeals other statutes relating to the pilot programs to reflect the bill's provisions. The changes take effect two years after the bill's effective date.

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

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

The bill amends statutes regarding selling, possessing, or trafficking in drugs and controlled substances and furnishing sample drugs so that a CNM, CNP, and CNS with a certificate to prescribe may do so without violating the criminal or pharmacy licensing laws.

**Technical amendments**

(secs. 4723.02 and 4723.151)

The bill revises certain statutes to reflect the prescriptive authority established by the bill.

**Creation of Joint Formulary Committee**

(sec. 4723.49)

The bill creates the Joint Formulary Committee to establish a formulary, and any supplements to the formulary, listing the classes of drugs and therapeutic devices that may be prescribed by nurses who hold certificates to prescribe. The Committee is required to consult with the Board of Nursing, State Medical Board, and State Board of Pharmacy prior to establishing the formulary or any supplements to it.

The bill requires the Committee to adopt rules establishing criteria for standard care arrangements, which must be consistent with the requirements for standard care arrangements specified in current law, and include (1) quality assurance standards, (2) procedures for periodic chart review by a collaborating physician or podiatrist, (3) acceptable travel time between the location at which the nurse is acting under a standard care arrangement and the location of the nurse's collaborating physician or podiatrist, and (4) any other criteria required by the Committee.

The Committee is to consist of the following members:

- (1) A certified nurse-midwife;
- (2) A certified nurse practitioner;
- (3) A clinical nurse specialist;
- (4) A member of the Board of Nursing who is a CNM, CNS, or CNP;<sup>4</sup>
- (5) Four individuals who are physicians or podiatrists, at least three of whom are collaborating with a CNM, CNP, or CNS;
- (6) A pharmacist.

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<sup>4</sup> See "**Board of Nursing membership.**"

The Committee is required to select a chairperson from the Committee members described in (1) through (4) or from the members described in (5) who are collaborating physicians or podiatrists. The Committee may select a new chairperson at any time. The Committee must meet at intervals agreed to by its members or at the call of the chairperson. Five members of the Committee constitute a quorum.

The Board of Nursing is required to appoint the members described in (1) to (4). The State Medical Board appoints the members described in (5) and the State Board of Pharmacy appoints the member described in (6).

Individuals and professional nursing associations may make recommendations to the Board of Nursing for the appointment of the members described in (1) through (4). Individuals and professional medical associations may make recommendations to the State Medical Board for the members described in (5). Individuals and professional pharmacy associations may make recommendations to the State Board of Pharmacy for the pharmacist member of the Committee. Each board must appoint Committee members based on the recommendations and, if no recommendations are made to fill a vacancy, the appropriate board must appoint a member to fill the vacancy on its own recommendation.

### **Terms of office**

Initial appointments to the Committee must be made by the appropriate board no later than 90 days after the bill's effective date. Of the initial appointments of the members described in (1) through (4), two are to be appointed for terms of three years and two for terms of two years. Of the initial appointments of the members described in (5), two are for three-year terms and two for two-year terms. The initial appointment of the pharmacist member is for a term of three years. Thereafter, all appointments are for three-year terms, each term ending on the same day of the same month of the year as the term it succeeds.

When a member's term expires, a successor is to be appointed who has the qualifications the vacancy requires. A member appointed to fill a vacancy occurring prior to the expiration of a term holds office for the remainder of the 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. If the State Medical Board or State Board of Pharmacy fails to appoint a Committee member, the Board of Nursing is required to appoint the successor. No member may be reappointed to the Committee more than once.

Committee members are to serve without compensation but receive their actual and necessary expenses incurred in the performance of their official duties.

### **Board of Nursing membership**

(sec. 4723.04)

Under current law, the Board of Nursing is composed of 13 members: eight registered nurses, four licensed practical nurses, and one consumer representative. The bill provides that of the eight members of the Board who are registered nurses, one member must hold a valid certificate of authority to practice nursing as a CNS, CNM, or CNP.

### **Board of Nursing approval of certificates of authority to practice nursing as a CNM, CNP, CRNA, or CNS**

(sec. 4723.42)

Under current law, the Board of Nursing is required to issue or deny a certificate to practice nursing as a CNM, CNP, CRNA, or CNS not later than 60 days after receiving all required documentation from an applicant. Not later than 15 days after receiving an application, the Board is required to provide an applicant with written notice by mail, of any required documents that have not been submitted. The bill repeals the 15-day deadline for providing the notice.

### **Licenses and certificates issued by the Board of Nursing**

(sec. 4723.28)

Current 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 bill, 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.

### **Collaborating or supervising physicians**

(secs. 4723.43 and 4723.431)

Under current law, a physician, podiatrist, or dentist who collaborates with a CNM, CNP, or CNS, or supervises a certified registered nurse anesthetist, must hold a certificate to practice medicine and surgery, podiatry, or dentistry issued in Ohio and be practicing in Ohio. Under the bill, the physician, podiatrist, or dentist must hold a certificate to practice in Ohio and be actively engaged in the practice of medicine, podiatry, or dentistry in Ohio.

### **Standard care arrangements**

(sec. 4723.431)

Under current law, a CNM, CNP, and CNS may practice only in accordance with a standard care arrangement entered into with one or more collaborating physicians or podiatrists. In addition to the requirements for standard care arrangements specified in statute, the Board of Nursing is authorized to establish by rule additional requirements.

The bill removes the Board of Nursing's authority to impose additional requirements for standard care arrangements and permits the Joint Formulary Committee created by the bill to adopt rules establishing any additional requirements.<sup>5</sup>

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

(sec. 4723.02)

Current law provides that the practice of nursing as a registered nurse or licensed practical nurse includes administering medications, treatments, and executing regimens prescribed by physicians, dentists, optometrists, and other specified individuals. Under the bill, the practice of nursing includes performing those same acts as 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.

### **Performing or inducing abortions**

(secs. 4723.151, 4723.28, 4723.44, 4723.49, 4723.52, 4723.56, and 4723.58)

Under current law, the practice of medicine and surgery, including performing or inducing an abortion, by any person other than a physician is prohibited. Current law governing the practice of nursing prohibits medical diagnosis, prescription of medical measures, and the practice of medicine or surgery or any of its branches by a registered nurse or licensed practical nurse. A CNM, CNP, CNS, or certified registered nurse anesthetist may, however, practice within the nurse's scope of practice and a CNM, CNP, and CNS who holds a certificate to prescribe under the bill's provisions may prescribe drugs and therapeutic devices in accordance with the bill's requirements.

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<sup>5</sup> See "**Creation of Joint Formulary Committee.**"

The bill specifies that nurses are prohibited from prescribing a drug or device to perform or induce an abortion or to otherwise perform or induce an abortion. The prohibition is expressed in the following provisions of current law:

(1) The law governing the discipline of registered nurses and licensed practical nurses;

(2) The prohibitions on the practice of nursing as a CNM, CNP, CNS, or certified registered nurse anesthetist;

(3) The law governing the formulary established by the Joint Formulary Committee for a CNM, CNP, or CNS who holds a certificate to prescribe;

(4) The law governing standard care arrangements, protocols, and the formulary for advanced practice nurses participating in the pilot program.

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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

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