

As Introduced

**128th General Assembly
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H. B. No. 206

Representatives Boyd, Oelslager

**Cosponsors: Representatives Combs, Domenick, Wachtmann, Ujvagi,
Letson, Yuko, Okey, Chandler**

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A B I L L

To amend sections 3719.06, 4723.06, 4723.481, 1
4723.482, 4723.492, and 4723.50 of the Revised 2
Code to modify the authority of certain advanced 3
practice nurses to prescribe schedule II 4
controlled substances. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3719.06, 4723.06, 4723.481, 6
4723.482, 4723.492, and 4723.50 of the Revised Code be amended to 7
read as follows: 8

Sec. 3719.06. (A)(1) A licensed health professional 9
authorized to prescribe drugs, if acting in the course of 10
professional practice, in accordance with the laws regulating the 11
professional's practice, and in accordance with rules adopted by 12
the state board of pharmacy, may, except as provided in division 13
(A)(2) or (3) of this section, do the following: 14

(a) Prescribe schedule II, III, IV, and V controlled 15
substances; 16

(b) Administer or personally furnish to patients schedule II, 17
III, IV, and V controlled substances; 18

(c) Cause schedule II, III, IV, and V controlled substances to be administered under the prescriber's direction and supervision.

(2) A licensed health professional authorized to prescribe drugs who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner ~~is subject to both of the following:~~

~~(a) A schedule II controlled substance may be prescribed only for a patient with a terminal condition, as defined in section 2133.01 of the Revised Code, only if the nurse's collaborating physician initially prescribed the substance for the patient, and only in an amount that does not exceed the amount necessary for the patient's use in a single, twenty four hour period.~~

~~(b) No shall not personally furnish to patients any schedule II controlled substance ~~shall be personally furnished to any patient.~~~~

(3) A licensed health professional authorized to prescribe drugs who is a physician assistant shall not prescribe or personally furnish to patients any controlled substance that is not included in the physician-delegated prescriptive authority granted to the physician assistant in accordance with Chapter 4730. of the Revised Code.

(B) No licensed health professional authorized to prescribe drugs shall prescribe, administer, or personally furnish a schedule III anabolic steroid for the purpose of human muscle building or enhancing human athletic performance and no pharmacist shall dispense a schedule III anabolic steroid for either purpose, unless it has been approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended.

(C) Each written prescription shall be properly executed,

dated, and signed by the prescriber on the day when issued and 50
shall bear the full name and address of the person for whom, or 51
the owner of the animal for which, the controlled substance is 52
prescribed and the full name, address, and registry number under 53
the federal drug abuse control laws of the prescriber. If the 54
prescription is for an animal, it shall state the species of the 55
animal for which the controlled substance is prescribed. 56

Sec. 4723.06. (A) The board of nursing shall: 57

(1) Administer and enforce the provisions of this chapter, 58
including the taking of disciplinary action for violations of 59
section 4723.28 of the Revised Code, any other provisions of this 60
chapter, or rules adopted under this chapter; 61

(2) Develop criteria that an applicant must meet to be 62
eligible to sit for the examination for licensure to practice as a 63
registered nurse or as a licensed practical nurse; 64

(3) Issue and renew nursing licenses, dialysis technician 65
certificates, and community health worker certificates, as 66
provided in this chapter; 67

(4) Define the minimum curricula and standards for 68
educational programs of the schools of professional nursing and 69
schools of practical nursing in this state; 70

(5) Survey, inspect, and grant full approval to prelicensure 71
nursing education programs that meet the standards established by 72
rules adopted under section 4723.07 of the Revised Code. 73
Prelicensure nursing education programs include, but are not 74
limited to, associate degree, baccalaureate degree, diploma, and 75
doctor of nursing programs leading to initial licensure to 76
practice nursing as a registered nurse and practical nurse 77
programs leading to initial licensure to practice nursing as a 78
licensed practical nurse. 79

(6) Grant conditional approval, by a vote of a quorum of the board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. If the board does not grant conditional approval, it shall hold an adjudication under Chapter 119. of the Revised Code to consider conditional approval of the program. If the board grants conditional approval, at its first meeting after the first class has completed the program, the board shall determine whether to grant full approval to the program. If the board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on results of the adjudication, the board may continue or withdraw conditional approval, or grant full approval.

(7) Place on provisional approval, for a period of time specified by the board, a program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. At the end of the period, the board shall reconsider whether the program meets the standards and shall grant full approval if it does. If it does not, the board may withdraw approval, pursuant to an adjudication under Chapter 119. of the Revised Code.

(8) Approve continuing nursing education programs and courses under standards established in rules adopted under section 4723.07 of the Revised Code;

(9) Approve peer support programs, under rules adopted under section 4723.07 of the Revised Code, for nurses, for dialysis technicians, and for certified community health workers;

(10) Establish a program for monitoring chemical dependency	112
in accordance with section 4723.35 of the Revised Code;	113
(11) Establish the practice intervention and improvement	114
program in accordance with section 4723.282 of the Revised Code;	115
(12) Issue and renew certificates of authority to practice	116
nursing as a certified registered nurse anesthetist, clinical	117
nurse specialist, certified nurse-midwife, or certified nurse	118
practitioner;	119
(13) Approve under section 4723.46 of the Revised Code	120
national certifying organizations for examination and	121
certification of certified registered nurse anesthetists, clinical	122
nurse specialists, certified nurse-midwives, or certified nurse	123
practitioners;	124
(14) Issue and renew certificates to prescribe in accordance	125
with sections 4723.48 and 4723.485 of the Revised Code;	126
(15) Grant approval to the planned classroom and clinical	127
study required by section 4723.483 <u>4723.482</u> of the Revised Code to	128
be eligible for a certificate to prescribe;	129
(16) Make an annual edition of the formulary established in	130
rules adopted under section 4723.50 of the Revised Code available	131
to the public either in printed form or by electronic means and,	132
as soon as possible after any revision of the formulary becomes	133
effective, make the revision available to the public in printed	134
form or by electronic means;	135
(17) Provide guidance and make recommendations to the general	136
assembly, the governor, state agencies, and the federal government	137
with respect to the regulation of the practice of nursing and the	138
enforcement of this chapter;	139
(18) Make an annual report to the governor, which shall be	140
open for public inspection;	141

(19) Maintain and have open for public inspection the	142
following records:	143
(a) A record of all its meetings and proceedings;	144
(b) A file of holders of nursing licenses, registrations, and	145
certificates granted under this chapter; dialysis technician	146
certificates granted under this chapter; and community health	147
worker certificates granted under this chapter. The file shall be	148
maintained in the form prescribed by rule of the board.	149
(c) A list of prelicensure nursing education programs	150
approved by the board;	151
(d) A list of approved peer support programs for nurses,	152
dialysis technicians, and certified community health workers.	153
(B) The board may fulfill the requirement of division (A)(8)	154
of this section by authorizing persons who meet the standards	155
established in rules adopted under section 4723.07 of the Revised	156
Code to approve continuing nursing education programs and courses.	157
Persons so authorized shall approve continuing nursing education	158
programs and courses in accordance with standards established in	159
rules adopted under section 4723.07 of the Revised Code.	160
Persons seeking authorization to approve continuing nursing	161
education programs and courses shall apply to the board and pay	162
the appropriate fee established under section 4723.08 of the	163
Revised Code. Authorizations to approve continuing nursing	164
education programs and courses shall expire, and may be renewed	165
according to the schedule established in rules adopted under	166
section 4723.07 of the Revised Code.	167
In addition to approving continuing nursing education	168
programs under division (A)(8) of this section, the board may	169
sponsor continuing education activities that are directly related	170
to the statutes and rules pertaining to the practice of nursing in	171
this state.	172

Sec. 4723.481. Under a certificate to prescribe issued under 173
section 4723.48 of the Revised Code, a clinical nurse specialist, 174
certified nurse-midwife, or certified nurse practitioner is 175
subject to all of the following: 176

(A) The clinical nurse specialist, certified nurse-midwife, 177
or certified nurse practitioner shall not prescribe any drug or 178
therapeutic device that is not included in the types of drugs and 179
devices listed on the formulary established in rules adopted under 180
section 4723.50 of the Revised Code. 181

(B) The ~~nurse's~~ prescriptive authority of the clinical nurse 182
specialist, certified nurse-midwife, or certified nurse 183
practitioner shall not exceed the prescriptive authority of the 184
collaborating physician or podiatrist. 185

(C) ~~The nurse may prescribe a schedule II controlled~~ 186
~~substance as specified in division (A)(2) of section 3719.06 of~~ 187
~~the Revised Code, but shall not prescribe a schedule II controlled~~ 188
~~substance in collaboration with a podiatrist.~~ 189

~~(D)~~ The clinical nurse specialist, certified nurse-midwife, 190
or certified nurse practitioner may personally furnish to a 191
patient a sample of any drug or therapeutic device included in the 192
types of drugs and devices listed on the formulary, subject to all 193
of the following: 194

(1) The amount of the sample furnished shall not exceed a 195
seventy-two-hour supply, except when the minimum available 196
quantity of the sample is packaged in an amount that is greater 197
than a seventy-two-hour supply, in which case ~~the nurse may~~ 198
~~furnish the sample in the packaged amount~~ may be furnished. 199

(2) No charge may be imposed for the sample or for furnishing 200
it. 201

(3) Samples of controlled substances may not be personally 202

furnished. 203

~~(E)~~(D) The clinical nurse specialist, certified 204
nurse-midwife, or certified nurse practitioner may personally 205
furnish to a patient a complete or partial supply of a drug or 206
therapeutic device included in the types of drugs and devices 207
listed on the formulary, subject to all of the following: 208

(1) The clinical nurse specialist, certified nurse-midwife, 209
or certified nurse practitioner shall personally furnish only 210
antibiotics, antifungals, scabicides, contraceptives, prenatal 211
vitamins, antihypertensives, drugs and devices used in the 212
treatment of diabetes, drugs and devices used in the treatment of 213
asthma, and drugs used in the treatment of dyslipidemia. 214

(2) The clinical nurse specialist, certified nurse-midwife, 215
or certified nurse practitioner shall not furnish the drugs and 216
devices in locations other than a health department operated by 217
the board of health of a city or general health district or the 218
authority having the duties of a board of health under section 219
3709.05 of the Revised Code, a federally funded comprehensive 220
primary care clinic, or a nonprofit health care clinic or program. 221

(3) The clinical nurse specialist, certified nurse-midwife, 222
or certified nurse practitioner shall comply with all safety 223
standards for personally furnishing supplies of drugs and devices, 224
as established in rules adopted under section 4723.50 of the 225
Revised Code. 226

Sec. 4723.482. (A) An applicant shall include with the 227
application submitted under section 4723.48 of the Revised Code 228
all of the following: 229

(1) Subject to section 4723.483 of the Revised Code, evidence 230
of holding a current, valid certificate of authority issued under 231
this chapter to practice as a clinical nurse specialist, certified 232

nurse-midwife, or certified nurse practitioner; 233

(2) ~~Except for a person who on May 17, 2000, was approved to~~ 234
~~prescribe drugs and therapeutic devices under section 4723.56 of~~ 235
~~the Revised Code, as that section existed on that date, evidence~~ 236
Evidence of successfully completing the instruction course of 237
study in advanced pharmacology and related topics in accordance 238
with the requirements specified in division (B) of this section; 239

(3) The fee required by section 4723.08 of the Revised Code 240
for a certificate to prescribe; 241

(4) Any additional information the board of nursing requires 242
pursuant to rules adopted under section 4723.50 of the Revised 243
Code. 244

(B) ~~All~~ With respect to the course of study in advanced 245
pharmacology and related topics that must be successfully 246
completed to obtain a certificate to prescribe, all of the 247
following requirements apply ~~to the instruction required under~~ 248
~~division (A)(2) of this section:~~ 249

(1) The ~~instruction must~~ course of study shall be ~~obtained~~ 250
completed not longer than three years before the application for 251
the certificate to prescribe is filed. 252

(2) The ~~instruction must be obtained through a course of~~ 253
study ~~consisting~~ shall consist of planned classroom and clinical 254
~~study that is~~ instruction for a total of not less than forty-five 255
contact hours. 256

(3) The course of study shall meet the requirements to be 257
approved by the board of nursing in accordance with standards 258
established in rules adopted under section 4723.50 of the Revised 259
Code. 260

~~(3)(4)~~ (4) The content of the ~~instruction must~~ course of study 261
shall be specific to the applicant's nursing specialty ~~and.~~ 262

<u>(5) The instruction provided in the course of study shall</u>	263
include all of the following:	264
(a) A minimum of thirty <u>thirty-six</u> contact hours of training <u>instruction</u> 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;	265 266 267 268 269
(b) Training <u>Instruction</u> in the fiscal and ethical implications of prescribing drugs and therapeutic devices;	270 271
(c) Training <u>Instruction</u> in the state and federal laws that apply to the authority to prescribe;	272 273
(d) <u>Instruction that is specific to schedule II controlled substances, including instruction in all of the following:</u>	274 275
<u>(i) Indications for the use of schedule II controlled substances in drug therapies, including pain management therapies;</u>	276 277
<u>(ii) The most recent guidelines for pain management therapies, as established by state and national organizations such as the Ohio pain initiative and the American pain society;</u>	278 279 280
<u>(iii) Ethical and fiscal implications of prescribing schedule II controlled substances;</u>	281 282
<u>(iv) State and federal laws that apply to the authority to prescribe schedule II controlled substances;</u>	283 284
<u>(v) Prevention of abuse and diversion of schedule II controlled substances, including identification of the risk of abuse and diversion, recognition of abuse and diversion, types of assistance available for prevention of abuse and diversion, and methods of establishing safeguards against abuse and diversion.</u>	285 286 287 288 289
(e) Any additional training <u>instruction</u> required pursuant to rules adopted under section 4723.50 of the Revised Code.	290 291

Sec. 4723.492. The committee on prescriptive governance shall 292
develop recommendations regarding the authority to prescribe drugs 293
and therapeutic devices pursuant to a certificate to prescribe 294
issued under section 4723.48 of the Revised Code. ~~Not later than~~ 295
~~fourteen months after the effective date of this section, the~~ The 296
recommendations shall include provisions that apply specifically 297
to the authority to prescribe schedule II controlled substances. 298

The committee shall submit recommendations to the board of 300
nursing as necessary for the board to fulfill its duty to adopt 301
rules under section 4723.50 of the Revised Code. At the board's 302
request, the committee shall reconsider a recommendation it has 303
submitted and resubmit the recommendation to the board 304
accordingly. 305

Sec. 4723.50. (A) In accordance with Chapter 119. of the 306
Revised Code, the board of nursing shall adopt rules as necessary 307
to implement the provisions of this chapter pertaining to the 308
authority of clinical nurse specialists, certified nurse-midwives, 309
and certified nurse practitioners to prescribe drugs and 310
therapeutic devices and the issuance and renewal of certificates 311
to prescribe. ~~Initial rules shall be adopted not later than twenty~~ 312
~~months after the effective date of this section.~~ 313

The board shall adopt rules that are consistent with the 314
recommendations the board receives from the committee on 315
prescriptive governance pursuant to section 4723.492 of the 316
Revised Code. After reviewing a recommendation submitted by the 317
committee, the board may either adopt the recommendation as a rule 318
or ask the committee to reconsider and resubmit the 319
recommendation. The board shall not adopt any rule that does not 320
conform to a recommendation made by the committee. 321

(B) The board shall adopt rules under this section that do 322
all of the following: 323

(1) Establish a formulary listing the types of drugs and 324
therapeutic devices that may be prescribed by a clinical nurse 325
specialist, certified nurse-midwife, or certified nurse 326
practitioner. The formulary may include controlled substances, as 327
defined in section 3719.01 of the Revised Code. The formulary 328
shall not permit the prescribing of any drug or device to perform 329
or induce an abortion. 330

(2) Establish safety standards to be followed by a clinical 331
nurse specialist, certified nurse-midwife, or certified nurse 332
practitioner when personally furnishing to patients complete or 333
partial supplies of antibiotics, antifungals, scabicides, 334
contraceptives, prenatal vitamins, antihypertensives, drugs and 335
devices used in the treatment of diabetes, drugs and devices used 336
in the treatment of asthma, and drugs used in the treatment of 337
dyslipidemia. 338

(3) Establish criteria for the components of the standard 339
care arrangements described in section 4723.431 of the Revised 340
Code that apply to ~~a nurse's~~ the authority to prescribe, including 341
the components that apply to the authority to prescribe schedule 342
II controlled substances. The rules shall be consistent with that 343
section and include all of the following: 344

(a) Quality assurance standards; 345

(b) Standards for periodic review by a collaborating 346
physician or podiatrist of the records of patients treated by the 347
clinical nurse specialist, certified nurse-midwife, or certified 348
nurse practitioner; 349

(c) Acceptable travel time between the location at which the 350
clinical nurse specialist, certified nurse-midwife, or certified 351
nurse practitioner is engaging in the prescribing components of 352

the nurse's practice and the location of the nurse's collaborating 353
physician or podiatrist; 354

(d) Any other criteria recommended by the committee on 355
prescriptive governance. 356

(4) Establish standards and procedures for issuance and 357
renewal of a certificate to prescribe, including specification of 358
any additional information the board may require under division 359
(A)(4) of section 4723.482 or division (B)(3) of section 4723.484 360
of the Revised Code; 361

(5) Establish ~~requirements~~ standards for board approval of 362
the ~~instruction course of study~~ in advanced pharmacology and 363
related topics required by section 4723.482 of the Revised Code; 364

(6) Establish standards and procedures for the appropriate 365
conduct of an externship ~~required by~~ that must be completed to be 366
eligible for a subsequent certificate to prescribe, as provided in 367
division (B)(1) of section 4723.484 of the Revised Code, including 368
the following: 369

(a) Standards and procedures to be used in evaluating a 370
~~nurse's~~ an individual's participation in an externship. Regardless 371
of the method of evaluation used, a the clinical nurse specialist, 372
certified nurse-midwife, or certified nurse practitioner shall not 373
be required to participate in an externship longer than one 374
thousand eight hundred hours. 375

(b) Standards and procedures for the supervision that a 376
physician must provide during an externship, including supervision 377
provided by working with the nurse participant and supervision 378
provided by making timely reviews of the records of patients 379
treated by the nurse participant. The manner in which supervision 380
must be provided may vary according to the location where the 381
nurse participant is practicing and with the ~~nurse's~~ participant's 382
level of experience. 383

Section 2. That existing sections 3719.06, 4723.06, 4723.481, 384
4723.482, 4723.492, and 4723.50 of the Revised Code are hereby 385
repealed. 386

Section 3. (A) Notwithstanding the provisions of section 387
4723.485 of the Revised Code specifying the requirements for 388
renewal of a certificate to prescribe, or the provisions of 389
division (B) of section 4723.484 specifying the conditions of 390
eligibility for a certificate to prescribe issued after practicing 391
under an externship certificate, a clinical nurse specialist, 392
certified nurse-midwife, or certified nurse practitioner holding a 393
certificate to prescribe that was issued prior to the effective 394
date of this act shall successfully complete, as a condition of 395
renewing the certificate or receiving a new certificate, a minimum 396
of six contact hours of instruction regarding schedule II 397
controlled substances as described in section 4723.482 of the 398
Revised Code, as amended by this act. In the case of a certificate 399
that is being renewed, the certificate holder shall complete the 400
instruction in addition to all other continuing nursing education 401
that must be completed by the certificate holder not later than 402
August 31, 2011. 403

(B) Notwithstanding the amendments made by this act to 404
section 3719.06 of the Revised Code, until the applicable 405
requirements of division (A) of this section have been met, a 406
certificate holder shall not prescribe a schedule II controlled 407
substance to a patient unless all of the following conditions are 408
met: 409

(1) The patient is in a terminal condition, as defined in 410
section 2133.01 of the Revised Code. 411

(2) The certificate holder's collaborating physician 412
initially prescribed the substance for the patient. 413

(3) The amount prescribed does not exceed the amount 414
necessary for the patient's use in a single, twenty-four-hour 415
period. 416

Section 4. Not later than 90 days after the effective date of 417
this section, the Committee on Prescriptive Governance shall 418
develop recommendations under section 4723.492 of the Revised Code 419
regarding the authority to prescribe schedule II controlled 420
substances pursuant to a certificate to prescribe. The Committee 421
shall submit the recommendations to the Board of Nursing in 422
accordance with the procedures specified in section 4723.492 of 423
the Revised Code. 424

Section 5. The Board of Nursing shall adopt rules under 425
section 4723.50 of the Revised Code as necessary to implement the 426
provisions of this act pertaining to the authority to prescribe 427
schedule II controlled substances pursuant to a certificate to 428
prescribe. The rules shall conform to the recommendations 429
submitted by the Committee on Prescriptive Governance. 430