

**As Passed by the House**

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

**Representatives Boyd, Oelslager**

**Cosponsors: Representatives Combs, Domenick, Wachtmann, Ujvagi,  
Letson, Yuko, Okey, Chandler, Brown, Celeste, Dyer, Evans, Gerberry, Heard,  
Hite, Koziura, Luckie, Mallory, Reece, Stewart, Szollosi, Walter, Williams, B.,  
Williams, S.**

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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 and to enact 2  
section 4723.486 of the Revised Code to modify the 3  
authority of certain advanced practice nurses to 4  
prescribe schedule II controlled substances. 5  
6

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

**Section 1.** That sections 3719.06, 4723.06, 4723.481, 7  
4723.482, 4723.492, and 4723.50 be amended and section 4723.486 of 8  
the Revised Code be enacted to read as follows: 9

**Sec. 3719.06.** (A)(1) A licensed health professional 10  
authorized to prescribe drugs, if acting in the course of 11  
professional practice, in accordance with the laws regulating the 12  
professional's practice, and in accordance with rules adopted by 13  
the state board of pharmacy, may, except as provided in division 14  
(A)(2) or (3) of this section, do the following: 15

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

substances; 17

(b) Administer or personally furnish to patients schedule II, 18  
III, IV, and V controlled substances; 19

(c) Cause schedule II, III, IV, and V controlled substances 20  
to be administered under the prescriber's direction and 21  
supervision. 22

(2) A licensed health professional authorized to prescribe 23  
drugs who is a clinical nurse specialist, certified nurse-midwife, 24  
or certified nurse practitioner ~~is subject to both of the~~ 25  
~~following:~~ 26

~~(a) A schedule II controlled substance may be prescribed only 27  
for a patient with a terminal condition, as defined in section 28  
2133.01 of the Revised Code, only if the nurse's collaborating 29  
physician initially prescribed the substance for the patient, and 30  
only in an amount that does not exceed the amount necessary for 31  
the patient's use in a single, twenty four hour period. 32~~

~~(b) No shall not personally furnish to patients any schedule 33  
II controlled substance ~~shall be personally furnished to any~~ 34  
~~patient.~~ 35~~

(3) A licensed health professional authorized to prescribe 36  
drugs who is a physician assistant shall not prescribe or 37  
personally furnish to patients any controlled substance that is 38  
not included in the physician-delegated prescriptive authority 39  
granted to the physician assistant in accordance with Chapter 40  
4730. of the Revised Code. 41

(B) No licensed health professional authorized to prescribe 42  
drugs shall prescribe, administer, or personally furnish a 43  
schedule III anabolic steroid for the purpose of human muscle 44  
building or enhancing human athletic performance and no pharmacist 45  
shall dispense a schedule III anabolic steroid for either purpose, 46  
unless it has been approved for that purpose under the "Federal 47

Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 48  
301, as amended. 49

(C) Each written prescription shall be properly executed, 50  
dated, and signed by the prescriber on the day when issued and 51  
shall bear the full name and address of the person for whom, or 52  
the owner of the animal for which, the controlled substance is 53  
prescribed and the full name, address, and registry number under 54  
the federal drug abuse control laws of the prescriber. If the 55  
prescription is for an animal, it shall state the species of the 56  
animal for which the controlled substance is prescribed. 57

**Sec. 4723.06.** (A) The board of nursing shall: 58

(1) Administer and enforce the provisions of this chapter, 59  
including the taking of disciplinary action for violations of 60  
section 4723.28 of the Revised Code, any other provisions of this 61  
chapter, or rules adopted under this chapter; 62

(2) Develop criteria that an applicant must meet to be 63  
eligible to sit for the examination for licensure to practice as a 64  
registered nurse or as a licensed practical nurse; 65

(3) Issue and renew nursing licenses, dialysis technician 66  
certificates, and community health worker certificates, as 67  
provided in this chapter; 68

(4) Define the minimum curricula and standards for 69  
educational programs of the schools of professional nursing and 70  
schools of practical nursing in this state; 71

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

practice nursing as a registered nurse and practical nurse 78  
programs leading to initial licensure to practice nursing as a 79  
licensed practical nurse. 80

(6) Grant conditional approval, by a vote of a quorum of the 81  
board, to a new prelicensure nursing education program or a 82  
program that is being reestablished after having ceased to 83  
operate, if the program meets and maintains the minimum standards 84  
of the board established by rules adopted under section 4723.07 of 85  
the Revised Code. If the board does not grant conditional 86  
approval, it shall hold an adjudication under Chapter 119. of the 87  
Revised Code to consider conditional approval of the program. If 88  
the board grants conditional approval, at its first meeting after 89  
the first class has completed the program, the board shall 90  
determine whether to grant full approval to the program. If the 91  
board does not grant full approval or if it appears that the 92  
program has failed to meet and maintain standards established by 93  
rules adopted under section 4723.07 of the Revised Code, the board 94  
shall hold an adjudication under Chapter 119. of the Revised Code 95  
to consider the program. Based on results of the adjudication, the 96  
board may continue or withdraw conditional approval, or grant full 97  
approval. 98

(7) Place on provisional approval, for a period of time 99  
specified by the board, a program that has ceased to meet and 100  
maintain the minimum standards of the board established by rules 101  
adopted under section 4723.07 of the Revised Code. At the end of 102  
the period, the board shall reconsider whether the program meets 103  
the standards and shall grant full approval if it does. If it does 104  
not, the board may withdraw approval, pursuant to an adjudication 105  
under Chapter 119. of the Revised Code. 106

(8) Approve continuing nursing education programs and courses 107  
under standards established in rules adopted under section 4723.07 108  
of the Revised Code; 109

(9) Approve peer support programs, under rules adopted under	110
section 4723.07 of the Revised Code, for nurses, for dialysis	111
technicians, and for certified community health workers;	112
(10) Establish a program for monitoring chemical dependency	113
in accordance with section 4723.35 of the Revised Code;	114
(11) Establish the practice intervention and improvement	115
program in accordance with section 4723.282 of the Revised Code;	116
(12) Issue and renew certificates of authority to practice	117
nursing as a certified registered nurse anesthetist, clinical	118
nurse specialist, certified nurse-midwife, or certified nurse	119
practitioner;	120
(13) Approve under section 4723.46 of the Revised Code	121
national certifying organizations for examination and	122
certification of certified registered nurse anesthetists, clinical	123
nurse specialists, certified nurse-midwives, or certified nurse	124
practitioners;	125
(14) Issue and renew certificates to prescribe in accordance	126
with sections 4723.48 and 4723.485 of the Revised Code;	127
(15) Grant approval to the planned classroom and clinical	128
study required by section <del>4723.483</del> <u>4723.482</u> of the Revised Code to	129
be eligible for a certificate to prescribe;	130
(16) Make an annual edition of the formulary established in	131
rules adopted under section 4723.50 of the Revised Code available	132
to the public either in printed form or by electronic means and,	133
as soon as possible after any revision of the formulary becomes	134
effective, make the revision available to the public in printed	135
form or by electronic means;	136
(17) Provide guidance and make recommendations to the general	137
assembly, the governor, state agencies, and the federal government	138
with respect to the regulation of the practice of nursing and the	139

enforcement of this chapter;	140
(18) Make an annual report to the governor, which shall be open for public inspection;	141 142
(19) Maintain and have open for public inspection the following records:	143 144
(a) A record of all its meetings and proceedings;	145
(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter; dialysis technician certificates granted under this chapter; and community health worker certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.	146 147 148 149 150
(c) A list of prelicensure nursing education programs approved by the board;	151 152
(d) A list of approved peer support programs for nurses, dialysis technicians, and certified community health workers.	153 154
(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve continuing nursing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.	155 156 157 158 159 160 161
Persons seeking authorization to approve continuing nursing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing nursing education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted under section 4723.07 of the Revised Code.	162 163 164 165 166 167 168
In addition to approving continuing nursing education	169

programs under division (A)(8) of this section, the board may 170  
sponsor continuing education activities that are directly related 171  
to the statutes and rules pertaining to the practice of nursing in 172  
this state. 173

**Sec. 4723.481.** Under a certificate to prescribe issued under 174  
section 4723.48 of the Revised Code, a clinical nurse specialist, 175  
certified nurse-midwife, or certified nurse practitioner is 176  
subject to all of the following: 177

(A) The clinical nurse specialist, certified nurse-midwife, 178  
or certified nurse practitioner shall not prescribe any drug or 179  
therapeutic device that is not included in the types of drugs and 180  
devices listed on the formulary established in rules adopted under 181  
section 4723.50 of the Revised Code. 182

(B) The ~~nurse's~~ prescriptive authority of the clinical nurse 183  
specialist, certified nurse-midwife, or certified nurse 184  
practitioner shall not exceed the prescriptive authority of the 185  
collaborating physician or podiatrist. 186

(C) ~~The nurse may prescribe a schedule II controlled~~ 187  
~~substance as specified in division (A)(2) of section 3719.06 of~~ 188  
~~the Revised Code, but shall not prescribe a schedule II controlled~~ 189  
~~substance in collaboration with a podiatrist.~~ 190

~~(D)~~ The clinical nurse specialist, certified nurse-midwife, 191  
or certified nurse practitioner may personally furnish to a 192  
patient a sample of any drug or therapeutic device included in the 193  
types of drugs and devices listed on the formulary, subject to all 194  
of the following: 195

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

~~furnish the sample in the packaged amount~~ may be furnished. 200

(2) No charge may be imposed for the sample or for furnishing 201  
it. 202

(3) Samples of controlled substances may not be personally 203  
furnished. 204

~~(E)~~(D) The clinical nurse specialist, certified 205  
nurse-midwife, or certified nurse practitioner may personally 206  
furnish to a patient a complete or partial supply of a drug or 207  
therapeutic device included in the types of drugs and devices 208  
listed on the formulary, subject to all of the following: 209

(1) The clinical nurse specialist, certified nurse-midwife, 210  
or certified nurse practitioner shall personally furnish only 211  
antibiotics, antifungals, scabicides, contraceptives, prenatal 212  
vitamins, antihypertensives, drugs and devices used in the 213  
treatment of diabetes, drugs and devices used in the treatment of 214  
asthma, and drugs used in the treatment of dyslipidemia. 215

(2) The clinical nurse specialist, certified nurse-midwife, 216  
or certified nurse practitioner shall not furnish the drugs and 217  
devices in locations other than a health department operated by 218  
the board of health of a city or general health district or the 219  
authority having the duties of a board of health under section 220  
3709.05 of the Revised Code, a federally funded comprehensive 221  
primary care clinic, or a nonprofit health care clinic or program. 222

(3) The clinical nurse specialist, certified nurse-midwife, 223  
or certified nurse practitioner shall comply with all safety 224  
standards for personally furnishing supplies of drugs and devices, 225  
as established in rules adopted under section 4723.50 of the 226  
Revised Code. 227

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



all of the following:	230
(1) Subject to section 4723.483 of the Revised Code, evidence	231
of holding a current, valid certificate of authority issued under	232
this chapter to practice as a clinical nurse specialist, certified	233
nurse-midwife, or certified nurse practitioner;	234
(2) <del>Except for a person who on May 17, 2000, was approved to</del>	235
<del>prescribe drugs and therapeutic devices under section 4723.56 of</del>	236
<del>the Revised Code, as that section existed on that date, evidence</del>	237
<u>Evidence</u> of successfully completing the <u>instruction course of</u>	238
<u>study</u> in advanced pharmacology and related topics <u>in accordance</u>	239
<u>with the requirements</u> specified in division (B) of this section;	240
(3) The fee required by section 4723.08 of the Revised Code	241
for a certificate to prescribe;	242
(4) Any additional information the board <u>of nursing</u> requires	243
pursuant to rules adopted under section 4723.50 of the Revised	244
Code.	245
(B) <del>All</del> <u>With respect to the course of study in advanced</u>	246
<u>pharmacology and related topics that must be successfully</u>	247
<u>completed to obtain a certificate to prescribe, all of the</u>	248
following <u>requirements</u> apply <del>to the instruction required under</del>	249
<del>division (A)(2) of this section:</del>	250
(1) The <del>instruction must</del> <u>course of study shall</u> be <del>obtained</del>	251
<u>completed</u> not longer than three years before the application for	252
the certificate to prescribe is filed.	253
(2) The <del>instruction must be obtained through a course of</del>	254
study <del>consisting</del> <u>shall consist</u> of planned classroom and clinical	255
<del>study that is</del> <u>instruction for a total of not less than forty-five</u>	256
<u>contact hours.</u>	257
(3) <u>The course of study shall meet the requirements to be</u>	258
approved by the board of nursing in accordance with standards	259

established in rules adopted under section 4723.50 of the Revised Code. 260  
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~~(3)~~(4) The content of the ~~instruction must~~ course of study shall be specific to the applicant's nursing specialty ~~and~~. 262  
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(5) The instruction provided in the course of study shall include all of the following: 264  
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(a) A minimum of ~~thirty~~ thirty-six contact hours of ~~training~~ instruction 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; 266  
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(b) ~~Training~~ Instruction in the fiscal and ethical implications of prescribing drugs and therapeutic devices; 271  
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(c) ~~Training~~ Instruction in the state and federal laws that apply to the authority to prescribe; 273  
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(d) Instruction that is specific to schedule II controlled substances, including instruction in all of the following: 275  
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(i) Indications for the use of schedule II controlled substances in drug therapies, including pain management therapies; 277  
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(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; 279  
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(iii) Ethical and fiscal implications of prescribing schedule II controlled substances; 282  
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(iv) State and federal laws that apply to the authority to prescribe schedule II controlled substances; 284  
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(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 286  
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methods of establishing safeguards against abuse and diversion. 290

(e) Any additional ~~training~~ instruction required pursuant to 291  
rules adopted under section 4723.50 of the Revised Code. 292

**Sec. 4723.486.** No holder of a certificate to prescribe issued 293  
under section 4723.48 of the Revised Code shall prescribe in a 294  
convenience care clinic any schedule II controlled substance to a 295  
patient. 296

**Sec. 4723.492.** The committee on prescriptive governance shall 297  
develop recommendations regarding the authority to prescribe drugs 298  
and therapeutic devices pursuant to a certificate to prescribe 299  
issued under section 4723.48 of the Revised Code. ~~Not later than~~ 300  
~~fourteen months after the effective date of this section, the~~ The 301  
recommendations shall include provisions that apply specifically 302  
to the authority to prescribe schedule II controlled substances. 303

The committee shall submit recommendations to the board of 304  
nursing as necessary for the board to fulfill its duty to adopt 305  
rules under section 4723.50 of the Revised Code. At the board's 306  
request, the committee shall reconsider a recommendation it has 307  
submitted and resubmit the recommendation to the board 308  
accordingly. 309  
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**Sec. 4723.50.** (A) In accordance with Chapter 119. of the 311  
Revised Code, the board of nursing shall adopt rules as necessary 312  
to implement the provisions of this chapter pertaining to the 313  
authority of clinical nurse specialists, certified nurse-midwives, 314  
and certified nurse practitioners to prescribe drugs and 315  
therapeutic devices and the issuance and renewal of certificates 316  
to prescribe. ~~Initial rules shall be adopted not later than twenty~~ 317  
~~months after the effective date of this section.~~ 318

The board shall adopt rules that are consistent with the 319  
recommendations the board receives from the committee on 320  
prescriptive governance pursuant to section 4723.492 of the 321  
Revised Code. After reviewing a recommendation submitted by the 322  
committee, the board may either adopt the recommendation as a rule 323  
or ask the committee to reconsider and resubmit the 324  
recommendation. The board shall not adopt any rule that does not 325  
conform to a recommendation made by the committee. 326

(B) The board shall adopt rules under this section that do 327  
all of the following: 328

(1) Establish a formulary listing the types of drugs and 329  
therapeutic devices that may be prescribed by a clinical nurse 330  
specialist, certified nurse-midwife, or certified nurse 331  
practitioner. The formulary may include controlled substances, as 332  
defined in section 3719.01 of the Revised Code. The formulary 333  
shall not permit the prescribing of any drug or device to perform 334  
or induce an abortion. 335

(2) Establish safety standards to be followed by a clinical 336  
nurse specialist, certified nurse-midwife, or certified nurse 337  
practitioner when personally furnishing to patients complete or 338  
partial supplies of antibiotics, antifungals, scabicides, 339  
contraceptives, prenatal vitamins, antihypertensives, drugs and 340  
devices used in the treatment of diabetes, drugs and devices used 341  
in the treatment of asthma, and drugs used in the treatment of 342  
dyslipidemia-; 343

(3) Establish criteria for the components of the standard 344  
care arrangements described in section 4723.431 of the Revised 345  
Code that apply to ~~a nurse's~~ the authority to prescribe, including 346  
the components that apply to the authority to prescribe schedule 347  
II controlled substances. The rules shall be consistent with that 348  
section and include all of the following: 349

(a) Quality assurance standards;	350
(b) Standards for periodic review by a collaborating physician or podiatrist of the records of patients treated by the <u>clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> ;	351 352 353 354
(c) Acceptable travel time between the location at which the <u>clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> is engaging in the prescribing components of the nurse's practice and the location of the nurse's collaborating physician or podiatrist;	355 356 357 358 359
(d) Any other criteria recommended by the committee on prescriptive governance.	360 361
(4) Establish standards and procedures for issuance and renewal of a certificate to prescribe, including specification of any additional information the board may require under division (A)(4) of section 4723.482 or division (B)(3) of section 4723.484 of the Revised Code;	362 363 364 365 366
(5) Establish <del>requirements</del> <u>standards</u> for board approval of the <del>instruction</del> <u>course of study</u> in advanced pharmacology and related topics required by section 4723.482 of the Revised Code;	367 368 369
(6) Establish standards and procedures for the appropriate conduct of an externship <del>required by</del> <u>that must be completed to be eligible for a subsequent certificate to prescribe, as provided in</u> division (B)(1) of section 4723.484 of the Revised Code, including the following:	370 371 372 373 374
(a) Standards and procedures to be used in evaluating a <del>nurse's</del> <u>an individual's</u> participation in an externship. Regardless of the method of evaluation used, a <u>the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> shall not be required to participate in an externship longer than one thousand eight hundred hours.	375 376 377 378 379 380

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

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

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

(B) Notwithstanding the amendments made by this act to section 3719.06 of the Revised Code, until the applicable

requirements of division (A) of this section have been complied 412  
with, a certificate holder shall not prescribe a schedule II 413  
controlled substance to a patient unless all of the following 414  
conditions are met: 415

(1) The patient is in a terminal condition, as defined in 416  
section 2133.01 of the Revised Code. 417

(2) The certificate holder's collaborating physician 418  
initially prescribed the substance for the patient. 419

(3) The amount prescribed does not exceed the amount 420  
necessary for the patient's use in a single, twenty-four-hour 421  
period. 422

**Section 4.** Not later than 90 days after the effective date of 423  
this section, the Committee on Prescriptive Governance shall 424  
develop recommendations under section 4723.492 of the Revised Code 425  
regarding the authority to prescribe schedule II controlled 426  
substances pursuant to a certificate to prescribe. The Committee 427  
shall submit the recommendations to the Board of Nursing in 428  
accordance with the procedures specified in section 4723.492 of 429  
the Revised Code. 430

**Section 5.** The Board of Nursing shall adopt rules under 431  
section 4723.50 of the Revised Code as necessary to implement the 432  
provisions of this act pertaining to the authority to prescribe 433  
schedule II controlled substances pursuant to a certificate to 434  
prescribe. The rules shall conform to the recommendations 435  
submitted by the Committee on Prescriptive Governance. 436