

As Reported by the House Health Committee

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Sub. 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 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 4723.483 <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	141

open for public inspection;	142
(19) Maintain and have open for public inspection the	143
following records:	144
(a) A record of all its meetings and proceedings;	145
(b) A file of holders of nursing licenses, registrations, and	146
certificates granted under this chapter; dialysis technician	147
certificates granted under this chapter; and community health	148
worker certificates granted under this chapter. The file shall be	149
maintained in the form prescribed by rule of the board.	150
(c) A list of prelicensure nursing education programs	151
approved by the board;	152
(d) A list of approved peer support programs for nurses,	153
dialysis technicians, and certified community health workers.	154
(B) The board may fulfill the requirement of division (A)(8)	155
of this section by authorizing persons who meet the standards	156
established in rules adopted under section 4723.07 of the Revised	157
Code to approve continuing nursing education programs and courses.	158
Persons so authorized shall approve continuing nursing education	159
programs and courses in accordance with standards established in	160
rules adopted under section 4723.07 of the Revised Code.	161
Persons seeking authorization to approve continuing nursing	162
education programs and courses shall apply to the board and pay	163
the appropriate fee established under section 4723.08 of the	164
Revised Code. Authorizations to approve continuing nursing	165
education programs and courses shall expire, and may be renewed	166
according to the schedule established in rules adopted under	167
section 4723.07 of the Revised Code.	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 furnished.	203 204
(E) (D) The <u>clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> may personally furnish to a patient a complete or partial supply of a drug or therapeutic device included in the types of drugs and devices listed on the formulary, subject to all of the following:	205 206 207 208 209
(1) The <u>clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> shall personally furnish only antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, and drugs used in the treatment of dyslipidemia.	210 211 212 213 214 215
(2) The <u>clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> shall not furnish the drugs and devices in locations other than a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program.	216 217 218 219 220 221 222
(3) The <u>clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner</u> shall comply with all safety standards for personally furnishing supplies of drugs and devices, as established in rules adopted under section 4723.50 of the Revised Code.	223 224 225 226 227
Sec. 4723.482. (A) An applicant shall include with the application submitted under section 4723.48 of the Revised Code all of the following:	228 229 230
(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) ~~Except for a person who on May 17, 2000, was approved to~~ 235
~~prescribe drugs and therapeutic devices under section 4723.56 of~~ 236
~~the Revised Code, as that section existed on that date, evidence~~ 237
Evidence of successfully completing the ~~instruction~~ course of 238
study in advanced pharmacology and related topics in accordance 239
with the requirements 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 of nursing requires 243
pursuant to rules adopted under section 4723.50 of the Revised 244
Code. 245

(B) ~~All~~ With respect to the course of study in advanced 246
pharmacology and related topics that must be successfully 247
completed to obtain a certificate to prescribe, all of the 248
following requirements apply ~~to the instruction required under~~ 249
~~division (A)(2) of this section:~~ 250

(1) The ~~instruction must~~ course of study shall be ~~obtained~~ 251
completed not longer than three years before the application for 252
the certificate to prescribe is filed. 253

(2) The ~~instruction must be obtained through a course of~~ 254
study ~~consisting~~ shall consist of planned classroom and clinical 255
~~study that is~~ instruction for a total of not less than forty-five 256
contact hours. 257

(3) The course of study shall meet the requirements to be 258
approved by the board of nursing in accordance with standards 259
established in rules adopted under section 4723.50 of the Revised 260
Code. 261

(3) (4) The content of the instruction must <u>course of study</u>	262
<u>shall</u> be specific to the applicant's nursing specialty and .	263
<u>(5) The instruction provided in the course of study shall</u>	264
include all of the following:	265
(a) A minimum of thirty <u>thirty-six</u> contact hours of training	266
<u>instruction</u> in advanced pharmacology that includes pharmacokinetic	267
principles and clinical application and the use of drugs and	268
therapeutic devices in the prevention of illness and maintenance	269
of health;	270
(b) Training <u>Instruction</u> in the fiscal and ethical	271
implications of prescribing drugs and therapeutic devices;	272
(c) Training <u>Instruction</u> in the state and federal laws that	273
apply to the authority to prescribe;	274
(d) <u>Instruction that is specific to schedule II controlled</u>	275
<u>substances, including instruction in all of the following:</u>	276
(i) <u>Indications for the use of schedule II controlled</u>	277
<u>substances in drug therapies, including pain management therapies;</u>	278
(ii) <u>The most recent guidelines for pain management</u>	279
<u>therapies, as established by state and national organizations such</u>	280
<u>as the Ohio pain initiative and the American pain society;</u>	281
(iii) <u>Ethical and fiscal implications of prescribing schedule</u>	282
<u>II controlled substances;</u>	283
(iv) <u>State and federal laws that apply to the authority to</u>	284
<u>prescribe schedule II controlled substances;</u>	285
(v) <u>Prevention of abuse and diversion of schedule II</u>	286
<u>controlled substances, including identification of the risk of</u>	287
<u>abuse and diversion, recognition of abuse and diversion, types of</u>	288
<u>assistance available for prevention of abuse and diversion, and</u>	289
<u>methods of establishing safeguards against abuse and diversion.</u>	290
(e) Any additional training <u>instruction</u> 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
304

The committee shall submit recommendations to the board of 305
nursing as necessary for the board to fulfill its duty to adopt 306
rules under section 4723.50 of the Revised Code. At the board's 307
request, the committee shall reconsider a recommendation it has 308
submitted and resubmit the recommendation to the board 309
accordingly. 310

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-i 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 351
physician or podiatrist of the records of patients treated by the 352

clinical nurse specialist, certified nurse-midwife, or certified 353
nurse practitioner; 354

(c) Acceptable travel time between the location at which the 355
clinical nurse specialist, certified nurse-midwife, or certified 356
nurse practitioner is engaging in the prescribing components of 357
the nurse's practice and the location of the nurse's collaborating 358
physician or podiatrist; 359

(d) Any other criteria recommended by the committee on 360
prescriptive governance. 361

(4) Establish standards and procedures for issuance and 362
renewal of a certificate to prescribe, including specification of 363
any additional information the board may require under division 364
(A)(4) of section 4723.482 or division (B)(3) of section 4723.484 365
of the Revised Code; 366

(5) Establish ~~requirements~~ standards for board approval of 367
the ~~instruction~~ course of study in advanced pharmacology and 368
related topics required by section 4723.482 of the Revised Code; 369

(6) Establish standards and procedures for the appropriate 370
conduct of an externship ~~required by~~ that must be completed to be 371
eligible for a subsequent certificate to prescribe, as provided in 372
division (B)(1) of section 4723.484 of the Revised Code, including 373
the following: 374

(a) Standards and procedures to be used in evaluating a 375
~~nurse's~~ an individual's participation in an externship. Regardless 376
of the method of evaluation used, a the clinical nurse specialist, 377
certified nurse-midwife, or certified nurse practitioner shall not 378
be required to participate in an externship longer than one 379
thousand eight hundred hours. 380

(b) Standards and procedures for the supervision that a 381
physician must provide during an externship, including supervision 382
provided by working with the nurse participant and supervision 383

provided by making timely reviews of the records of patients 384
treated by the nurse participant. The manner in which supervision 385
must be provided may vary according to the location where the 386
nurse participant is practicing and with the ~~nurse's~~ participant's 387
level of experience. 388

Section 2. That existing sections 3719.06, 4723.06, 4723.481, 389
4723.482, 4723.492, and 4723.50 of the Revised Code are hereby 390
repealed. 391

Section 3. (A) Notwithstanding the provisions of section 392
4723.485 of the Revised Code specifying the requirements for 393
renewal of a certificate to prescribe, or the provisions of 394
division (B) of section 4723.484 of the Revised Code specifying 395
the conditions of eligibility for a certificate to prescribe 396
issued after practicing under an externship certificate, a 397
clinical nurse specialist, certified nurse-midwife, or certified 398
nurse practitioner holding a certificate to prescribe that was 399
issued prior to the effective date of this act shall successfully 400
complete, as a condition of renewing the certificate or receiving 401
a new certificate, a minimum of six contact hours of instruction 402
regarding schedule II controlled substances as described in 403
section 4723.482 of the Revised Code, as amended by this act. In 404
the case of a certificate that is being renewed, the certificate 405
holder shall complete the instruction in addition to all other 406
continuing nursing education that must be completed by the 407
certificate holder not later than August 31, 2011. 408

(B) Notwithstanding the amendments made by this act to 410
section 3719.06 of the Revised Code, until the applicable 411
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