



# Ohio Legislative Service Commission

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## Bill Analysis

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### **Sub. S.B. 89**

128th General Assembly

(As Reported by S. Health, Human Services, and Aging)

**Sens.** Morano, Fedor, Cafaro, Schiavoni, R. Miller, D. Miller, Kearney, Turner, Sawyer, Wilson, Wagoner, Gillmor, Schuring

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## **BILL SUMMARY**

- Permits an out-of-state or federally employed advanced practice nurse with prescriptive authority that extends to controlled substances to obtain prescriptive authority in Ohio without completing an externship if (1) the nurse completed, during the three years preceding the date that the nurse applies for prescriptive authority in Ohio, one continuous year of prescriptive authority in the other jurisdiction or as a federal employee, (2) the prescribing component of the nurse's practice was overseen or supervised by a licensed physician, and (3) the nurse completed a two-hour course in Ohio laws governing drugs and prescriptive authority.
- Permits an out-of-state or federally employed advanced practice nurse with prescriptive authority that does not extend to controlled substances to obtain prescriptive authority in Ohio upon completion of 500 hours of an externship and a two-hour course in Ohio laws governing drugs and prescriptive authority, provided that the nurse completed, during the three years preceding the date that the nurse initially applies for prescriptive authority in Ohio, one year of continuous prescriptive authority in the other jurisdiction or as a federal employee, and provided that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician.
- Requires the Chancellor of the Ohio Board of Regents to establish within the Ohio Skills Bank a mechanism to facilitate communication, cooperation, and partnerships to meet regional and statewide nursing education needs.
- Permits the Chancellor to award 25% of available funds in the Nurse Education Assistance Fund at the Chancellor's discretion, with preference given to programs

aimed at increasing enrollment in an area of need, or to the students in prelicensure professional nurse education programs for licensed practical nurses.

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## CONTENT AND OPERATION

### Prescriptive authority

#### Current requirements for in-state nurses

(R.C. 4723.48, 4723.482, and R.C. 4723.484 (renumbered as 4723.485); O.A.C. 4723-9-01 and 4723-9-04 (not in the bill))

Under current law, an advanced practice nurse authorized to practice in Ohio as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may acquire the authority to prescribe drugs and therapeutic devices by obtaining a certificate to prescribe through the Board of Nursing.<sup>1</sup> To obtain the certificate, a nurse must first obtain an externship certificate to prescribe and complete an externship. To qualify for an externship certificate, a nurse must meet the following four requirements:

- (1) Hold a current, valid certificate of authority issued by the Board to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;
- (2) Have paid the appropriate fee;
- (3) Except for nurses who participated in certain pilot programs prior to 2000, have completed, not longer than three years before the date of application for the certificate, at least 30 hours of instruction in advanced pharmacology and related topics;
- (4) Provide any additional information required by the Board.

The externship permits the nurse to gain experience prescribing drugs and therapeutic devices while supervised by a physician in accordance with Board rules. There are three basic requirements of the externship. Each requirement is currently set forth only in the Ohio Administrative Code. First, the externship must consist of a total of at least 1,500 and not more than 1,800 hours of supervised prescribing practice. Second, 500 of the hours of supervision must be direct, meaning that the supervising professional<sup>2</sup> is available on site. Third, the remaining 1,000 to 1,300 hours may be

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<sup>1</sup> Certified registered nurse anesthetists are not eligible for prescriptive authority in Ohio.

<sup>2</sup> The administrative rules authorize another advanced practice nurse with prescriptive authority to provide up to 200 of the 500 hours of direct supervision (O.A.C. 4723-9-04(B)(1)).

satisfied with indirect supervision, consisting of timely reviews of the nurse's prescribing practices.

If a nurse successfully completes an externship and pays the required fee, the Board is to issue the nurse a certificate to prescribe. That certificate authorizes the nurse to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

### **Codification in the Revised Code of externship requirements**

(R.C. 4723.484 and 4723.50)

The bill codifies in the Revised Code the requirement that is currently in the Administrative Code that to successfully complete an externship, an externship-certificate holder must complete at least 1,500 hours during which the holder's prescribing practices are supervised in accordance with existing law. The bill correspondingly removes a provision of current law prohibiting a nurse from being required to complete an externship of more than 1,800 hours.

### **Current requirements for out-of-state nurses**

(O.A.C. 4723-9-04 (not in the bill))

Currently, the Administrative Code permits an advanced practice nurse who has current and valid prescriptive authority from another jurisdiction to satisfy the externship's 1,000-hour indirect-supervision requirement by showing documentation that the nurse's prescriptive practice was overseen or supervised in the other jurisdiction. The nurse must verify that the oversight or supervision occurred within the three years immediately preceding the application for prescriptive authority. Therefore, out-of-state advanced practice nurses who come to Ohio with prescriptive authority from another jurisdiction are currently required to complete 500 hours of directly supervised prescribing practice to obtain a certificate to prescribe in Ohio.

### **Requirements under the bill for out-of-state nurses authorized to prescribe controlled substances**

(R.C. 4723.48 and 4723.482)

The bill exempts, from the requirement to complete an externship to obtain a certificate to prescribe, an individual who practiced or is practicing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in another jurisdiction or as an employee of the United States government. To qualify for the exemption, the bill requires the individual to meet the following requirements:

(1) Hold a current, valid certificate of authority issued under Ohio law to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(2) Have paid the appropriate fee;

(3) Have held, for a continuous period of at least one year during the three years immediately preceding the date that the nurse initially applied for prescriptive authority in Ohio, valid authority issued by another jurisdiction to prescribe drugs and therapeutic devices, including at least some controlled substances; or have been employed by the federal government for a continuous period of at least one year during the preceding three years with authority to prescribe drugs and therapeutic devices, including at least some controlled substances, in conjunction with the federal employment;

(4) Provide documentation that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician in the other jurisdiction or a licensed physician employed by the federal government;

(5) Complete a two-hour Board-approved course in Ohio laws governing drugs and prescriptive authority;

(6) Provide any additional information required by the Board.

The bill requires the Board to issue a certificate to prescribe (not an externship certificate) to each out-of-state or federally employed nurse who meets the requirements described above.

**Requirements under the bill for out-of-state nurses unauthorized to prescribe controlled substances**

(R.C. 4723.48, 4723.482, and 4723.484)

The bill exempts an individual who practiced or is practicing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in another jurisdiction or as an employee of the United States government and whose prescriptive authority does or did not extend to controlled substances from part of the externship requirement. Specifically, the bill requires such an individual to complete only 500 hours of the externship under supervision in accordance with existing law.<sup>3</sup> To qualify for this exemption, the bill requires the individual to meet the following requirements:

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<sup>3</sup> While completing the 500 hours, the advanced practice nurse will be practicing under an externship certificate.

(1) Hold a current, valid certificate of authority issued under Ohio law to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(2) Have paid the appropriate fee;

(3) Have held, for a continuous period of at least one year during the three years immediately preceding the date that the nurse initially applied for prescriptive authority in Ohio, valid authority issued by another jurisdiction to prescribe drugs and therapeutic devices (with the exception of controlled substances); or have been employed by the federal government for a continuous period of at least one year during the preceding three years with authority to prescribe drugs and therapeutic devices (with the exception of controlled substances) in conjunction with the federal employment;

(4) Provide documentation that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician in the other jurisdiction or a licensed physician employed by the federal government;

(5) Provide any additional information required by the Board.

To successfully complete the externship, the bill requires these individuals to also complete a two-hour Board-approved course in Ohio laws governing drugs and prescriptive authority.

### **Board rules**

(Section 3)

The bill requires the Board to amend its rules to reflect the bill's changes to the law governing prescriptive authority for out-of-state and federally employed advanced practice nurses. The bill prohibits the Board from enforcing any rule that is inconsistent with the bill's changes.

### **Nursing education programs**

#### **Ohio Skills Bank**

(R.C. 3333.29)

As part of the TurnAround Ohio plan, Governor Ted Strickland initiated the Ohio Skills Bank to support regional partnerships in analyzing regional skill shortages in key industries and to devise solutions to address the shortages through workforce education, training, and portable credentialing. Under the Governor's plan, the Ohio

Skills Bank initiative is to involve state funding for research, planning, and initiative implementation.<sup>4</sup> The bill requires the Chancellor of the Ohio Board of Regents to establish within the Ohio Skills Bank a mechanism to facilitate communication, cooperation, and partnerships among state institutions of higher education<sup>5</sup> with nursing education programs and between state institutions of higher education and hospitals in Ohio to meet regional and statewide nursing education needs.

### **Nurse Education Assistance Program**

(R.C. 3333.28)

Current law requires the Chancellor to establish the Nurse Education Assistance Program to make loans to students in (1) prelicensure nurse education programs and (2) postlicensure nurse education programs. The loans are made from the Nurse Education Assistance Fund, which consists of amounts collected from a \$5 surcharge on the fees paid for biennial renewal of licenses to practice nursing. Between July 1, 2005, and January 1, 2012, the Chancellor is required to distribute money in the fund as follows: (1) 50% to registered nurses enrolled in postlicensure programs, (2) 25% to students enrolled in prelicensure programs for registered nurses, and (3) 25% to students enrolled in prelicensure programs for licensed practical nurses. After January 1, 2012, the Chancellor must determine the manner in which funds are to be distributed.

With regard to the funds to be distributed to students in prelicensure programs for licensed practical nurses, the bill requires that the funds, until January 1, 2012, be awarded to students enrolled in prelicensure programs for licensed practical nurses or as the Chancellor determines, "with preference given to programs aimed at increasing enrollment in an area of need."

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-01-09
Reported, S. Health, Human Services, & Aging	06-30-09

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<sup>4</sup> Community Research Partners, *The Ohio Skills Bank: Powering Skill Growth...Region by Region* (last visited April 27, 2009), available at [http://jfs.ohio.gov/rfp/R89150877/Appx9.1\\_Ohio%20Skills%20Bank%20Initiative%20DesignAttach.pdf](http://jfs.ohio.gov/rfp/R89150877/Appx9.1_Ohio%20Skills%20Bank%20Initiative%20DesignAttach.pdf).

<sup>5</sup> The bill defines a "state institution of higher education" as any state university or college, community college, state community college, university branch, or technical college