THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 717 Session of 2015

INTRODUCED BY VANCE, SCARNATI, BAKER, YUDICHAK, HUTCHINSON, MENSCH, SCHWANK, HUGHES, BARTOLOTTA, SCAVELLO, LEACH, WOZNIAK, McGARRIGLE, STEFANO, McILHINNEY, FOLMER, ARGALL, COSTA AND TEPLITZ, APRIL 10, 2015

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, APRIL 10, 2015

AN ACT

Amending the act of May 22, 1951 (P.L.317, No.69), entitled, as amended, "An act relating to the practice of professional nursing; providing for the licensing of nurses and for the revocation and suspension of such licenses, subject to appeal, and for their reinstatement; providing for the renewal of such licenses; regulating nursing in general; prescribing penalties and repealing certain laws," further providing for definitions; and providing for licensure as a certified nurse practitioner.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2(1), (10), (13) and (14) of the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law, amended or added June 29, 2002 (P.L.651, No.99) and December 9, 2002 (P.L.1567, No.206), are amended and the section is amended by adding paragraphs to read:

Section 2. Definitions.--When used in this act, the following words and phrases shall have the following meanings unless the context provides otherwise:

(1) The "Practice of Professional Nursing" means diagnosing...
and treating human responses to actual or potential health problems through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed physician or dentist. The foregoing shall not be deemed to include acts of medical diagnosis or prescription of medical therapeutic or corrective measures, except as performed by a certified nurse practitioner acting in accordance with rules and regulations promulgated by the Board.

* * *

(10) "Medical nutrition therapy" means the component of nutrition therapy that concerns determining and recommending nutrient needs based on nutritional assessment and medical problems relative to diets prescribed by a licensed physician or certified nurse practitioner, including:

(i) tube feedings;
(ii) specialized intravenous solutions;
(iii) specialized oral solutions; and
(iv) interactions of prescription drugs with food or nutrients.

* * *

[(13) "Collaboration" means a process in which a certified registered nurse practitioner works with one or more physicians to deliver health care services within the scope of the certified registered nurse practitioner's expertise. The process includes all of the following:

(i) Immediate availability of a licensed physician to a certified registered nurse practitioner through direct communications or by radio, telephone or telecommunications.

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(ii) A predetermined plan for emergency services.
(iii) A physician available to a certified registered nurse practitioner on a regularly scheduled basis for referrals, review of the standards of medical practice incorporating consultation and chart review, drug and other medical protocols within the practice setting, periodic updating in medical diagnosis and therapeutics and cosigning records when necessary to document accountability by both parties.

(14) "Drug Review Committee" means the committee established in section 8.4 whose function is to approve or disapprove, by addition or deletion, the categories of drugs that may be prescribed by certified registered nurse practitioners.

* * *

(16) "Certified nurse practitioner" or "advanced practice registered nurse—certified nurse practitioner" means a registered nurse licensed in this Commonwealth to practice independently in a particular clinical specialty area or population focus in which the registered nurse is certified.

(17) "Population focus" means a category of the population within which a certified nurse practitioner practices, including family/individual across the lifespan, adult-gerontology, neonatal, pediatrics, women's health/gender-related, psychiatric/mental health and any other such categories as designated by board regulations.

(18) "Controlled substance" means any drug designated as such under the provisions of the act of April 14, 1972 (P.L.233, No.64), known as the "Controlled Substance, Drug, Device and Cosmetic Act."

(19) "Non-proprietary drug" means a drug containing any quantity of any controlled substance or any drug which is
required by any applicable Federal or State law to be dispensed only by prescription.

(20) "Proprietary drug" means a non-prescription, non-narcotic medicine or drug which may be sold without a prescription and which is prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of the Federal Government and this Commonwealth.

(21) "Licensed independent practitioner" means any practitioner licensed under this act to provide care and services, without direction or supervision, within the scope of the practitioner's license.

Section 2. Section 2.1(l) of the act, added December 9, 2002 (P.L.1567, No.206), is amended to read:

Section 2.1. State Board of Nursing.--* * *

(l) Any powers and duties imposed on the State Board of Medicine or jointly imposed on the State Board of Medicine and the State Board of Nursing, with respect to certified [registered] nurse practitioners, by or pursuant to law or regulation shall, after the effective date of this subsection, be exercised solely by the State Board of Nursing. This subsection shall not apply to 49 Pa. Code §§ 21.283(4) (relating to prescribing and dispensing drugs) and 21.321 (relating to performance of tasks without direction; performance of tasks without training; other) unless the State Board of Nursing promulgates a regulation to exercise the duties imposed on the State Board of Medicine by those sections.

Section 3. Sections 3.1(b) and 7(b) of the act, amended or added June 29, 2002 (P.L.651, No.99), are amended to read:

Section 3.1. Dietitian-Nutritionist License Required.--* * *

(b) Nothing in this section shall be construed to require or
preclude third-party insurance reimbursement. Nothing herein shall preclude an insurer or other third-party payor from requiring that a licensed dietitian-nutritionist obtain a referral from a licensed physician, certified nurse practitioner, dentist or podiatrist or that a licensed dietitian-nutritionist file an evaluation and treatment plan with the insurer or third-party payor as a precondition of reimbursement.

Section 7. Graduates of Schools of Other States, Territories or Dominion of Canada.--* * *
(b) The Board may issue a [certification to registered nurse practitioners who have] license as a certified nurse practitioner to a registered nurse who has completed a course of study considered by the Board to be equivalent to that required in this State at the time such course was completed or who is licensed or certified by another state, territory or possession of the United States or a foreign country as deemed equivalent to Pennsylvania's [certification] licensure requirements in accordance with the [joint] rules and regulations of the [Boards of Nursing and Medicine] board.

* * *

Section 4. Section 8.1 of the act is amended by adding a subsection to read:

Section 8.1. Certified Registered Nurse Practitioners; Qualifications.--* * *
(d) The authority of the board to certify a licensed registered nurse as a certified registered nurse practitioner shall expire on the effective date of section 8.8.

Section 5. Section 8.2 of the act, amended July 20, 2007 (P.L.318, No.48), is amended to read:
Section 8.2. Scope of Practice for Certified [Registered] Nurse Practitioners.--(a) A certified [registered] nurse practitioner [while functioning in the expanded role as a professional nurse] shall practice within the scope of practice of the particular clinical specialty area or population focus in which the nurse is [certified] licensed by the board. Notwithstanding any other provision of law, a certified nurse practitioner is entitled to all of the following:

(1) To practice as a licensed independent practitioner within the scope of practice of the particular clinical specialty area or population focus in which the nurse is licensed by the board.

(2) To be recognized as a primary care provider under managed care and other health care plans.

(b) A certified [registered] nurse practitioner may perform acts of medical diagnosis [in collaboration with a physician and] in accordance with regulations promulgated by the board.

(c) [Except as provided in subsection (c.1), a] A certified [registered] nurse practitioner may prescribe medical therapeutic or corrective measures if the nurse is acting in accordance with the provisions of section 8.3.

(c.1) [Except as limited by subsection (c.2), and in] In addition to existing authority, a certified [registered] nurse practitioner shall have authority to do all of the following, provided that the certified nurse practitioner is acting within the scope of [the certified registered nurse practitioner's collaborative or written agreement with a physician and] the certified [registered] nurse practitioner's [specialty] certification:

(1) Order home health and hospice care.
(2) Order durable medical equipment.
(3) Issue oral orders [to the extent permitted by the health care facilities' by-laws, rules, regulations or administrative policies and guidelines].
(4) Make physical therapy and dietitian referrals.
(5) Make respiratory, speech and occupational therapy referrals.
(6) Perform disability assessments for the program providing Temporary Assistance to Needy Families (TANF).
(7) Issue homebound schooling certifications.
(8) Perform and sign the initial assessment of methadone treatment evaluations [, provided that any] and order [for] methadone treatment [shall be made only by a physician].
(c.2) [Nothing in this section shall be construed to:
(1) Supersede the authority of the Department of Health and the Department of Public Welfare to regulate the types of health care professionals who are eligible for medical staff membership or clinical privileges.
(2) Restrict the authority of a health care facility to determine the scope of practice and supervision or other oversight requirements for health care professionals practicing within the facility.] Notwithstanding any provision of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, that may be to the contrary, no regulation or order of the Department of Health, the Department of Human Services or the Insurance Department shall supersede the decision of the governing body of a health care facility that the types of health care professionals who are eligible for medical staff membership or clinical privileges at the facility include certified nurse practitioners when practicing as
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(d) Nothing in this section shall be construed to limit or prohibit a certified [registered] nurse practitioner from engaging in those activities which normally constitute the practice of nursing as defined in section 2.

Section 6. Sections 8.3 and 8.4 of the act, added December 9, 2002 (P.L.1567, No.206), are amended to read:

Section 8.3. Prescriptive Authority for Certified [Registered] Nurse Practitioners.--(a) A certified [registered] nurse practitioner may prescribe medical therapeutic or corrective measures if the nurse:

(1) has successfully completed at least forty-five (45) hours of coursework specific to advanced pharmacology at a level above that required by a professional nursing education program;

(2) is [acting in collaboration with a physician as set forth in a written agreement which shall, at a minimum, identify the following:

(i) the area of practice in which the nurse is certified;
(ii) the categories of drugs from which the nurse may prescribe or dispense; and
(iii) the circumstances and how often the collaborating physician will personally see the patient] practicing within a clinical specialty area or population focus in which the nurse is certified; and

(3) is acting in accordance with regulations promulgated by the board.

(b) A certified [registered] nurse practitioner who satisfies the requirements of subsection (a) may independently prescribe and dispense [those categories of drugs that certified registered nurse practitioners were authorized to prescribe and dispense within the scope of their certification].
dispense by board regulations in effect on the effective date of 
this section, subject to the restrictions on certain drug 
categories imposed by those regulations. The board shall add to 
or delete from the categories of authorized drugs in accordance 
with the provisions of section 8.4) proprietary and non-
proprietary drugs, subject to any restrictions imposed by board 
regulations or by Federal law.

Section 8.4. [Drug Review Committee.--(a) The Drug Review 
Committee is hereby established and shall consist of seven 
members as follows:

(1) The Secretary of Health or, at the discretion of the 
Secretary of Health, the Physician General as his or her 
designee, who shall act as chairman.

(2) Two certified registered nurse practitioners who are 
actively engaged in clinical practice, appointed to three-year 
terms by the Secretary of Health.

(3) Two licensed physicians who are actively engaged in 
clinical practice, appointed to three-year terms by the 
Secretary of Health, at least one of whom shall, at the time of 
appointment, be collaborating with one or more certified 
registered nurse practitioners in accordance with section 8.3(a) 
(2).

(4) Two licensed pharmacists who are actively engaged in the 
practice of pharmacy, appointed to three-year terms by the 
Secretary of Health.

(b) (1) The board shall submit to the Drug Review Committee 
any proposed change to the categories of drugs that certified 
registered nurse practitioners were authorized to prescribe 
pursuant to board regulations in effect on the effective date of 
this section. The board shall not change, by addition or
deletion, the categories of authorized drugs without prior
approval of the Drug Review Committee.

(2) Within sixty (60) days of a submission by the board
under paragraph (1), a majority of the Drug Review Committee
shall vote to approve or disapprove the proposed change.

(3) If a majority of the Drug Review Committee fails to vote
to approve or disapprove the proposed change within sixty (60)
days of receipt of a submission by the board under paragraph
(1), the Drug Review Committee shall be deemed to have approved
the proposed change.] (Reserved).

Section 7. Section 8.7 of the act, added July 20, 2007
(P.L.318, No.48), is amended to read:

Section 8.7. Professional Liability.--A certified
[registered] nurse practitioner practicing in this Commonwealth
shall maintain a level of professional liability coverage as
required for a nonparticipating health care provider under the
act of March 20, 2002 (P.L.154, No.13), known as the "Medical
Care Availability and Reduction of Error (Mcare) Act," but shall
not be eligible to participate in the Medical Care Availability
and Reduction of Error (Mcare) Fund.

Section 8. The act is amended by adding a section to read:

Section 8.8. Licensure as a Certified Nurse Practitioner.--

(a) A registered nurse who holds current certification by the
board, pursuant to section 8.1, as a certified registered nurse
practitioner in a particular clinical specialty area on the
effective date of this section shall automatically be deemed to
be licensed by the board as a certified nurse practitioner,
either in that specialty area or in the population focus for
which that registered nurse is otherwise qualified. The board
shall issue appropriate written notice of such license as a
1 certified nurse practitioner, provided that the issuance of that
2 notice shall not be a condition precedent to practice in
3 accordance with that license.
4
5 (b) Except as provided in subsection (a), a person shall not
6 qualify for an initial license as a certified nurse practitioner
7 on or after the effective date of this section unless the person
8 meets the following criteria:
9
10 (1) Holds a current license in this Commonwealth as a
11 registered nurse.
12
13 (2) Is a graduate of an accredited, board-approved master's
14 or post-master's nurse practitioner program.
15
16 (3) Holds current certification as a certified nurse
17 practitioner from a board-recognized national certification
18 program which required passing a national certifying examination
19 in the particular clinical specialty area or population focus in
20 which the nurse is seeking licensure by the board.
21
22 (c) (1) An initial license pursuant to subsection (a) as a
23 certified nurse practitioner shall expire on the same date as
24 the nurse's then current license as a registered nurse is
25 scheduled to expire. Such license as a certified nurse
26 practitioner shall thereafter be renewed biennially on the same
27 date as the nurse's license as a registered nurse.
28
29 (2) An initial license pursuant to subsection (b) or section
30 7(b) as a certified nurse practitioner shall expire on the same
31 date as the nurse's then current license as a registered nurse
32 is scheduled to expire. Such license as a certified nurse
33 practitioner shall thereafter be renewed biennially on the same
34 date as the nurse's license as a registered nurse.
35
36 (3) As a condition for biennial renewal by the board of a
37 license as a certified nurse practitioner, the nurse must do all
of the following:

(i) Maintain a current license in this Commonwealth as a registered nurse.

(ii) Maintain current certification through a board-recognized national certification program in the particular clinical specialty area or population focus in which the nurse is licensed as a certified nurse practitioner by the board.

(iii) In the two years prior to renewal, complete at least thirty (30) hours of continuing education approved by the board. In the case of a certified nurse practitioner who is prescribing medical therapeutic or corrective measures pursuant to section 8.3, that continuing education must include at least sixteen (16) hours in pharmacology in that two-year period.

(d) The board shall establish a procedure by which a license as a certified nurse practitioner may be amended prior to the biennial renewal date in order to authorize a nurse to practice in a particular clinical specialty area or population focus in which the nurse was not certified on the effective date of this section or on the date on which the nurse's current license as a certified nurse practitioner was issued or renewed. The board shall authorize a certified nurse practitioner to practice in an additional clinical specialty area or population focus only if the nurse holds current certification from a board-recognized national certification program which required the passing of a national certifying examination in the additional clinical specialty area or population focus.

(e) (1) The use of the terms "certified registered nurse practitioner," "registered nurse practitioner," "certified nurse practitioner" and "nurse practitioner" in any other act shall be deemed to include a person licensed as a certified nurse practitioner.
practitioner pursuant to this section or to section 7(b).

(2) A registered nurse who is licensed by the board as a certified nurse practitioner in a particular clinical specialty area or population focus is entitled to use the title "advanced practice registered nurse-certified nurse practitioner" and the letters "A.P.R.N.-C.N.P." It shall be unlawful for any other person to use the title "advanced practice registered nurse-certified nurse practitioner" or the letters "A.P.R.N.-C.N.P."

(f) (1) A certified nurse practitioner may form a professional corporation with one or more of the following:

   (i) Other registered nurses.

   (ii) Other health care practitioners who treat human ailments and conditions and are licensed to provide health care services in this Commonwealth without receiving a referral or supervision from another health care practitioner.

(2) This subsection shall be construed to abrogate the requirement that the State Board of Medicine and the State Board of Osteopathic Medicine expressly authorize the combined practice of certified nurse practitioners with doctors of medicine or doctors of osteopathic medicine, respectively, found in section 2903(d)(1)(ii) of Title 15 of the Pennsylvania Consolidated Statutes.

Section 9. Within 90 days after the effective date of this act, the State Board of Nursing, the Department of Health, the Department of Human Services and other affected agencies shall initiate the promulgation of any regulations necessary because of the amendments made by this act to the act of May 22, 1951 (P.L.317, No.69), known as the Professional Nursing Law, provided that the promulgation of those regulations shall not be a condition precedent to the applicability of any such
amendments.

Section 10. This act shall take effect in 60 days.