

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 765 Session of 2015

INTRODUCED BY TOPPER, MURT, BARRAR, BOBACK, CAUSER, COHEN,
 DIAMOND, FARRY, FREEMAN, GABLER, GIBBONS, GINGRICH,
 J. HARRIS, M. K. KELLER, REGAN, SANKEY, SAYLOR, SIMS, WARD,
 WARNER, MILNE, MUSTIO, RADER, M. DALEY, DiGIROLAMO AND LEWIS,
 MARCH 23, 2015

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 23, 2015

AN ACT

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

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

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

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

20 (1) The "Practice of Professional Nursing" means diagnosing

1 and treating human responses to actual or potential health
2 problems through such services as casefinding, health teaching,
3 health counseling, and provision of care supportive to or
4 restorative of life and well-being, and executing medical
5 regimens as prescribed by a licensed physician or dentist. The
6 foregoing shall not be deemed to include acts of medical
7 diagnosis or prescription of medical therapeutic or corrective
8 measures, except as performed by a certified [registered] nurse
9 practitioner acting in accordance with rules and regulations
10 promulgated by the Board.

11 * * *

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

- 17 (i) tube feedings;
18 (ii) specialized intravenous solutions;
19 (iii) specialized oral solutions; and
20 (iv) interactions of prescription drugs with food or
21 nutrients.

22 * * *

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

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

1 (ii) A predetermined plan for emergency services.

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

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

13 * * *

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

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

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

29 (19) "Non-proprietary drug" means a drug containing any
30 quantity of any controlled substance or any drug which is

1 required by any applicable Federal or State law to be dispensed
2 only by prescription.

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

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

12 Section 2. Section 2.1(1) of the act, added December 9, 2002
13 (P.L.1567, No.206), is amended to read:

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

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

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

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

30 (b) Nothing in this section shall be construed to require or

1 preclude third-party insurance reimbursement. Nothing herein
2 shall preclude an insurer or other third-party payor from
3 requiring that a licensed dietitian-nutritionist obtain a
4 referral from a licensed physician, certified nurse
5 practitioner, dentist or podiatrist or that a licensed
6 dietitian-nutritionist file an evaluation and treatment plan
7 with the insurer or third-party payor as a precondition of
8 reimbursement.

9 Section 7. Graduates of Schools of Other States, Territories
10 or Dominion of Canada.--* * *

11 (b) The Board may issue a [certification to registered nurse
12 practitioners who have] license as a certified nurse
13 practitioner to a registered nurse who has completed a course of
14 study considered by the Board to be equivalent to that required
15 in this State at the time such course was completed or who is
16 licensed or certified by another state, territory or possession
17 of the United States or a foreign country as deemed equivalent
18 to Pennsylvania's [certification] licensure requirements in
19 accordance with the [joint] rules and regulations of the [Boards
20 of Nursing and Medicine] Board.

21 * * *

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

24 Section 8.1. Certified Registered Nurse Practitioners;
25 Qualifications.--* * *

26 (d) The authority of the Board to certify a licensed
27 registered nurse as a certified registered nurse practitioner
28 shall expire on the effective date of section 8.8.

29 Section 5. Section 8.2 of the act, amended July 20, 2007
30 (P.L.318, No.48), is amended to read:

1 Section 8.2. Scope of Practice for Certified [Registered]
2 Nurse Practitioners.--(a) A certified [registered] nurse
3 practitioner [while functioning in the expanded role as a
4 professional nurse] shall practice within the scope of practice
5 of the particular clinical specialty area or population focus
6 in which the nurse is [certified] licensed by the [board] Board.
7 Notwithstanding any other provision of law, a certified nurse
8 practitioner is entitled to all of the following:

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

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

15 (3) To be reimbursed directly by insurers and other
16 third-party payors.

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

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

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

1 certified [registered] nurse practitioner's [specialty]

2 certification:

3 (1) Order home health and hospice care.

4 (2) Order durable medical equipment.

5 (3) Issue oral orders [to the extent permitted by the health
6 care facilities' by-laws, rules, regulations or administrative
7 policies and guidelines].

8 (4) Make physical therapy and dietitian referrals.

9 (5) Make respiratory, speech and occupational therapy
10 referrals.

11 (6) Perform disability assessments for the program providing
12 Temporary Assistance to Needy Families (TANF).

13 (7) Issue homebound schooling certifications.

14 (8) Perform and sign the initial assessment of methadone
15 treatment evaluations[, provided that any] and order [for]
16 methadone treatment [shall be made only by a physician].

17 [(c.2) Nothing in this section shall be construed to:

18 (1) Supersede the authority of the Department of Health and
19 the Department of Public Welfare to regulate the types of health
20 care professionals who are eligible for medical staff membership
21 or clinical privileges.

22 (2) Restrict the authority of a health care facility to
23 determine the scope of practice and supervision or other
24 oversight requirements for health care professionals practicing
25 within the facility.]

26 (d) Nothing in this section shall be construed to limit or
27 prohibit a certified [registered] nurse practitioner from
28 engaging in those activities which normally constitute the
29 practice of nursing as defined in section 2.

30 Section 6. Sections 8.3 and 8.4 of the act, added December

1 9, 2002 (P.L.1567, No.206), are amended to read:

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

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

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

12 (i) the area of practice in which the nurse is certified;

13 (ii) the categories of drugs from which the nurse may
14 prescribe or dispense; and

15 (iii) the circumstances and how often the collaborating
16 physician will personally see the patient] practicing within a
17 clinical specialty area or population focus in which the nurse
18 is certified; and

19 (3) is acting in accordance with regulations promulgated by
20 the [board] Board.

21 (b) A certified [registered] nurse practitioner who
22 satisfies the requirements of subsection (a) may independently
23 prescribe and dispense [those categories of drugs that certified
24 registered nurse practitioners were authorized to prescribe and
25 dispense by board regulations in effect on the effective date of
26 this section, subject to the restrictions on certain drug
27 categories imposed by those regulations. The board shall add to
28 or delete from the categories of authorized drugs in accordance
29 with the provisions of section 8.4] proprietary and non-
30 proprietary drugs, subject to any restrictions imposed by Board

1 regulations or by Federal law.

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

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

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

11 (3) Two licensed physicians who are actively engaged in
12 clinical practice, appointed to three-year terms by the
13 Secretary of Health, at least one of whom shall, at the time of
14 appointment, be collaborating with one or more certified
15 registered nurse practitioners in accordance with section 8.3(a)
16 (2).

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

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

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

30 (3) If a majority of the Drug Review Committee fails to vote

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

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

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

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

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

17 (a) A registered nurse who holds current certification by the
18 Board, pursuant to section 8.1, as a certified registered nurse
19 practitioner in a particular clinical specialty area on the
20 effective date of this section shall automatically be deemed to
21 be licensed by the Board as a certified nurse practitioner,
22 either in that specialty area or in the population focus for
23 which that registered nurse is otherwise qualified. The Board
24 shall issue appropriate written notice of such license as a
25 certified nurse practitioner, provided that the issuance of that
26 notice shall not be a condition precedent to practice in
27 accordance with that license.

28 (b) Except as provided in subsection (a), a person shall not
29 qualify for an initial license as a certified nurse practitioner
30 on or after the effective date of this section unless the person

1 meets the following criteria:

2 (1) Holds a current license in this Commonwealth as a
3 registered nurse.

4 (2) Is a graduate of an accredited, Board-approved master's
5 or post-master's nurse practitioner program.

6 (3) Holds current certification as a certified nurse
7 practitioner from a Board-recognized national certification
8 program which required passing a national certifying examination
9 in the particular clinical specialty area or population focus in
10 which the nurse is seeking licensure by the Board.

11 (c) (1) An initial license pursuant to subsection (a) as a
12 certified nurse practitioner shall expire on the same date as
13 the nurse's then-current license as a registered nurse is
14 scheduled to expire. Such license as a certified nurse
15 practitioner shall thereafter be renewed biennially on the same
16 date as the nurse's license as a registered nurse.

17 (2) An initial license pursuant to subsection (b) or section
18 7(b) as a certified nurse practitioner shall expire on the same
19 date as the nurse's then-current license as a registered nurse
20 is scheduled to expire. Such license as a certified nurse
21 practitioner shall thereafter be renewed biennially on the same
22 date as the nurse's license as a registered nurse.

23 (3) As a condition for biennial renewal by the Board of a
24 license as a certified nurse practitioner, the nurse must do all
25 of the following:

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

28 (ii) Maintain current certification through a Board-
29 recognized national certification program in the particular
30 clinical specialty area or population focus in which the nurse

1 is licensed as a certified nurse practitioner by the Board.

2 (iii) In the two years prior to renewal, complete at least
3 thirty (30) hours of continuing education approved by the Board.
4 In the case of a certified nurse practitioner who is prescribing
5 medical therapeutic or corrective measures pursuant to section
6 8.3, that continuing education must include at least sixteen
7 (16) hours in pharmacology in that two-year period.

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

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

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

1 person to use the title "advanced practice registered nurse-
2 certified nurse practitioner" or the letters "A.P.R.N.-C.N.P."

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

5 (i) Other registered nurses.

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

10 (2) This subsection shall be construed to abrogate the
11 requirement that the State Board of Medicine and the State Board
12 of Osteopathic Medicine expressly authorize the combined
13 practice of certified nurse practitioners with doctors of
14 medicine or doctors of osteopathic medicine, respectively, found
15 in 15 Pa.C.S. § 2903(d)(1)(ii) (relating to formation of
16 professional corporations).

17 Section 9. Within 90 days after the effective date of this
18 act, the State Board of Nursing shall initiate the promulgation
19 of any regulations necessary because of the amendments made by
20 this act to the act of May 22, 1951 (P.L.317, No.69), known as
21 the Professional Nursing Law, provided that the promulgation of
22 those regulations shall not be a condition precedent to the
23 applicability of any such amendments.

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