SPONSOR: Rep. Minor-Brown & Sen. Poore
Reps. Baumbach, Carson; Sens. Gay, Paradee, Sturgeon, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 141

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO ADVANCED PRACTICE REGISTERED NURSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1902, Title 24 of the Delaware Code by making deletion as shown by strike through and insertions as shown by underline and redesignating accordingly:

§ 1902 Definitions [Effective July 1,2021].

(c) "Advanced practice registered nurse" ("APRN") means an individual with knowledge and skills in basic nursing education; licensure as a registered nurse ("RN"); and graduation from or completion of a graduate-level APRN program accredited by a national accrediting body and current certification by a national certifying body in the appropriate APRN role and at least 1 population focus. "Advanced practice registered nurse" includes certified nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, or clinical nurse specialist. Advanced practice nursing ~~means~~ is an expanded scope of nursing licensed as an independent licensed practitioner in a role and population focus approved by the Board of Nursing, with or without compensation or personal profit, and includes the RN scope of practice. The scope of an APRN includes performing acts of advanced assessment, diagnosing, prescribing, and ordering. Advanced practice nursing is the application of nursing principles, including those described in subsection ~~(y)~~ (x) of this section.

~~(d) "Collaborative agreement" means a written document expressing an arrangement between a licensed physician, podiatrist, or licensed Delaware health care delivery system and an advanced practice registered nurse.~~

(d) ~~(e)~~ "Compact Administrator" means the Executive Director of the Delaware Board of Nursing who is designated as the compact Administrator under Chapters 19A and 19B of this title ~~by the President of the Board~~.

~~(k)~~ (j) "Full-practice authority", as granted to an advanced practice registered nurse, means ~~all of the following:~~ the collection of state practice and licensure laws that allow APRNs to evaluate patients, diagnose, order and interpret diagnostic tests, initiate and manage treatments, including prescribing medications, under exclusive licensure authority of the Delaware Board of Nursing and includes:

(1) Practicing within standards established or recognized by the Board of Nursing.

(2) Being accountable to patients, the nursing profession, and the Board of Nursing for complying with the requirements of this chapter and the quality of advanced nursing care rendered.

(3) Recognizing limits of knowledge and experience.

(4) Planning for the management of situations beyond the APRN's expertise.

(5) Consultation with or referring patients to other health-care providers as appropriate.

~~(m) "Independent practice" means practice and prescribing by an advanced practice registered nurse who is not subject to a collaborative agreement and works outside the employment of an established health care organization, health care delivery system, physician, podiatrist, or practice group owned by a physician or podiatrist. Independent practice shall be in an area substantially related to the population focus of the APRN's education and certification.~~

Section 2. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1922. Disciplinary proceedings; appeal.

(c) Procedure.

(1) When a complaint is filed pursuant to § 8735 of Title 29, alleging a violation of this chapter, the complaint shall be received and investigated by the Division of Professional Regulation and the Division shall be responsible for issuing a final written report at the conclusion of its investigation.

(2) The Board shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing to be served upon the practitioner at least ~~30~~ 20 days before the date fixed for the hearing. In cases where the practitioner cannot be located or where the personal service cannot be ~~effected~~ effectuated, substitute service shall be effected in the same manner as with civil litigation.

§ 1924. Unlawful practices.

(a) No person shall practice or offer to practice professional ~~or practical~~, practical, or advanced practice registered nursing or shall represent himself or herself as a registered nurse ~~or licensed practical nurse~~, practical nurse, or advanced practice registered nurse in this State, or shall use any title, abbreviation, sign, card or device to indicate that such person is a registered nurse, ~~or~~ licensed practical nurse, or advanced practice registered nurse, unless such person is licensed under this chapter.

§ 1934. Advanced Practice Registered Nurse Committee.

(a) The Advanced Practice Registered Nurse Committee's ("Committee") purpose is to:

(1) Recommend and draft regulations regarding the practice of advanced practice registered nurses. ~~; and~~

~~(2) Review collaborative agreements upon submission to the Board; and~~

~~(3) [Repealed]~~

~~(4) Review collaborative agreements of advanced practice registered nurses(APRNs) who seek independent practice to determine if independent practice may be granted~~.

(b) The Committee shall have 9 members, appointed by the Board of Nursing, and consist of the following: 9 advanced practice registered nurses, including 2 certified nurse practitioners, 2 certified registered nurse anesthetists, 2 certified nurse midwives, 2 clinical nurse the specialists, and 1 at-large member from any of the 4 APRN roles. The Committee Chair must be one of the APRN members of the Board of Nursing and shall serve a term of 1 year. Subsequent terms may be served as long as the Chair remains a member of the Board of Nursing.

~~(1) Four advanced practice registered nurses representing each category of APRN role with a variety of population foci, appointed by the Board of Nursing. Each APRN member of the committee shall have at least the equivalent of 3 years of full time experience in their APRN role.~~

~~(2) One pharmacist, appointed by the Board of Pharmacy~~.

~~(3) Four physicians who work with APRNs, appointed by the Board of Discipline Medical Licensure~~.

~~(4) The first Committee Chair shall be 1 of the 2 APRNs who are members of the Board of Nursing and shall serve for 1 year, not to succeed himself or herself for more than 2 consecutive terms. The position of committee chair shall then rotate among members.~~

(c) Appointments shall be for 3-year terms, provided that the terms of newly-appointed members will be staggered so that no more than 5 appointments shall expire annually. Members may be appointed for less than 3 years to ensure that members' terms expire on a staggered basis.

(d) A majority of members appointed to the Committee shall constitute a quorum to conduct official business.

(e) A Committee member may be removed at any time for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. A member who is absent from 3 consecutive committee meetings without good cause or who attends less than 50% of committee meetings in a calendar year shall be deemed in neglect of duty.

(f) The Committee shall:

(1) Draft rules and regulations regarding the practice of advance practice registered nurses. ~~regarding competencies, benchmarks, and metrics within each of the 4 roles and 6 population foci that must be accomplished during the collaborative agreement period for review by the Board.~~

(2) Review emerging practices and advise the Board of Nursing on APRN licensure, the APRN Compact, and practice standards, including prescribing trends, and provide recommendations to the Board of Nursing regarding APRN practice.

~~(3)a. Make recommendations to the Board of Nursing whether to grant or deny requests for may also recommend that individual independent practice. The committee collaborative agreement periods be extended for additional time~~.

~~b. The Committee shall make its recommendation after evaluating evidence that a graduate advanced practice registered nurse or APRN has:~~

~~1. Practiced under a collaborative agreement within a hospital or integrated clinical setting for at least 2 years and a minimum of 4,000 full time hours. The physician, podiatrist, or health care delivery system party to the collaborative agreement must practice in an area substantially related to the population and focus of the APRN's education, certification, and planned independent practice. The 2 year collaborative agreement is submitted to the Committee and Board of Nursing.~~

~~2. Submitted written evidence that the collaborators have satisfactorily completed 2 years and a minimum of 4,000 full time hours of collaboration in compliance with the Board of Nursing's rules and regulations regarding competencies, benchmarks, and metrics within the APRN's role and population focus. Such written evidence shall be submitted after the completion of the practice hours required in this chapter and prior to the granting of independent practice.~~

~~(4)a. The Board of Nursing shall provide to the Board of Medical Licensure and Discipline a monthly list of APRNs who were granted prescriptive authority.~~

~~b. When an APRN who has been granted independent practice comes before the Board of Nursing for discipline related to a deviation from the standard of care, the Board of Nursing's decision must be approved by the Board of Medical Licensure and Discipline.~~

§ 1935. Advanced Practice Registered Nurse (APRN)-Authority and duties.

(a)(1) The board of nursing grants full-practice and prescriptive authority upon the issuance of an APRN license. ~~The granting of full practice authority does not equate to the granting of independent practice.~~

(2) The Board may, by endorsement, license as an advanced practice registered nurse an applicant who is duly licensed as an advanced practice registered nurse or is entitled to perform similar services under a different title under the laws of another state or a territory of the United States or a foreign country if, in the opinion of the Board, the applicant meets the qualifications specified by its regulations for advanced practice nurses in this State.

(b) An APRN licensed by the Board of Nursing with full-practice authority is authorized within the APRN's role and population foci to:

(1) Prescribe, procure, administer, store, dispense, and furnish over the counter, legend and controlled substances pursuant to applicable state and federal laws and within the APRN's role and population foci.

(2) Plan and initiate a therapeutic regimen within the APRN's role and population foci that includes ordering and prescribing nonpharmacological interventions, including:

a. Medical devices and durable medical equipment, nutrition, blood, and blood products.

b. Diagnostic and supportive services including home health care, hospice, and physical and occupational therapy.

(3) Diagnose, prescribe and institute therapy or referrals of patients within the APRN's role and population foci to health-care agencies, health-care providers and community resources.

(4) Sign death certificates ~~in all circumstances, subject to the restrictions set forth in the definition of the term "practice of professional nursing" as provided in this chapter~~.

(c) APRN's with full-practice authority shall seek consultation regarding treatment and care of patients as appropriate to patient needs and the APRN's level of expertise and scope of practice.

(d) An APRN may be designated as the primary care provider by an insurer or health-care services corporation.

(e) An APRN ~~granted independent practice~~ shall not be held to any lesser standard of care than that of a physician providing care to a specific patient condition or population.

(f) Any APRN rendering services in person or by electronic means in Delaware must hold an active Delaware RN and APRN license.

~~(g) APRN's shall obtain approval from the APRN Committee and Board of Nursing pursuant to this chapter in order to practice independently.~~

~~§ 1936. Collaborative agreements.~~

~~(a) A collaborative agreement must outline how the parties to the agreement will cooperate, coordinate, and consult pursuant to the Board of Nursing's rules and regulations.~~

~~(b) All new APRN graduates and those nurses seeking to obtain independent practice must practice under a collaborative agreement for 2 years and a minimum of 4,000 full-time hours.~~

~~(c) An APRN already practicing under a collaborative agreement as of July 1, 2015, who seeks to obtain independent practice must resubmit the collaborative agreement to the APRN Committee in order to be granted credit for any hours accumulated and must otherwise comply with the relevant provisions of this chapter and the Board's regulations.~~

SYNOPSIS

This Act is a Companion Bill to House Bill No. 21. It aligns the Delaware Board of Nursing statute with the APRN Compact to advance APRN practice through elimination of barriers and improving access to care for Delawareans. The Act removes the requirement for a collaborative agreement for licensure purposes although employers and health care organizations may still require one.

The Act amends the definitions of “APRN” and “full practice authority” so that they are consistent with national standards. The Act also removes the definition of “independent practice” since ,nationally, “independent practice” means having “full practice authority”. This Act grants full practice authority in conjunction with licensure and removes the current requirements for obtaining independent practice.

The Act changes the composition of the APRN Committee to include 9 APRNs and clarifies the Committee’s purpose which is to make recommendations to the Delaware Board of Nursing regarding: APRN practices, the Compact and licensure.