SPONSOR: Sen. Hall-Long & Rep. Barbieri
Sens. Bushweller, Lopez & Reps. Baumbach, Carson, Jaques, Mitchell, Osienski, Paradee, Viola

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 101

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSING.

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

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

§ 1902. Definitions.

(b)~~(1)~~ "Advanced practice nurse" means an individual whose education and certification meet criteria established by the Board of Nursing who is currently licensed as a registered nurse and has a master's degree or a postbasic program certificate in a clinical nursing specialty with national certification. When no national certification at the advanced level exists, a master's degree in a clinical nursing specialty will qualify an individual for advanced practice nurse licensure. "Advanced practice nurse" shall include~~, but not be limited to,~~ nurse practitioners, certified registered nurse anesthetists, certified nurse midwives or clinical nurse specialists. Advanced practice nursing ~~is the application of nursing principles, including those described in subsection (o) of~~ means "the practice of professional nursing", as defined in this section~~, at an advanced level and includes:~~.

~~a. For those advanced practice nurses who do not perform independent acts of diagnosis or prescription, the authority as granted within the scope of practice rules and regulations promulgated by the Board of Nursing; and~~

~~b. For those advanced practice nurses performing independent acts of diagnosis and/or prescription with the collaboration of a licensed physician, dentist, podiatrist or licensed Delaware health care delivery system without written guidelines or protocols and within the scope of practice as defined in the rules and regulations promulgated by the Joint Practice Committee and approved by the Board of Medical Licensure and Discipline.~~

~~Nothing in this act is to be construed to limit the practice of nursing by advanced practice nurses as is currently being done or allowed including nursing diagnosis as pursuant to paragraph (o)(2) of this section.~~

~~Advanced practice nurses shall operate in collaboration with a licensed physician, dentist, podiatrist, or licensed Delaware health care delivery system to cooperate, coordinate, and consult with each other as appropriate~~

~~pursuant to a collaborative agreement defined in the rules and regulations promulgated by the Board of Nursing, in the provision of health care to their patients. Advanced practice nurses desiring to practice independently or to prescribe independently must do so pursuant to § 1906(a)(20) of Title 24.~~

~~(2) Those individuals who wish to engage in independent practice without written guidelines or protocols and/or wish to have independent prescriptive authority shall apply for such privilege or privileges to the Joint Practice Committee and do so only in collaboration with a licensed physician, dentist, podiatrist or licensed Delaware health care delivery system. This does not include those individuals who have protocols and/or waivers approved by the Board of Medical Licensure and Discipline.~~

(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.

(f) "Consultation" means the communication and decision-making process among healthcare professionals related to the treatment and care of a patient, including the exchange of clinical observations and assessments; accessing and assessment of appropriate additional resources or expertise; arrangement of appropriate referrals, testing, or studies; and development of an appropriate plan of care that includes decisions regarding the health care provided.

(h) "Full practice authority", as granted to an advanced practice registered nurse, means all of the following:

(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 Act 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.

~~(f)~~(i) ~~The~~ "Head of the Nursing Licensing Board" ~~shall be~~ means the President of the Delaware Board of Nursing~~;~~ ~~and~~.

~~(g) "Independent practice by an advanced practice nurse" shall include those advance practice nurses who practice and prescribe without written guidelines or protocols but with a collaborative agreement with a licensed physician, dentist, podiatrist or licensed Delaware health care delivery system and with the approval of the Joint Practice Committee.~~

(j) "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 and focus of the APRN's education, and certification.

Section 2. Amend § 1906, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

(a) The Board shall:

~~(19) Create a regulatory committee entitled "Joint Practice Committee" to develop rules and regulations regarding the independent practice and prescriptive authority of "advance practice nurses." The Committee shall consist of 9 members and shall be as follows:~~

~~a. The Board of Nursing shall appoint 1 public member and 5 advanced practice nurses.~~

~~b. The Board of Pharmacy shall appoint 1 pharmacist.~~

~~c. The Board of Medical Licensure and Discipline shall appoint 2 physicians;~~

(19) Administer the Advanced Practice Registered Nurse Committee;

(20) ~~The "Joint Practice Committee" with the approval of the Board of Medical Licensure and Discipline shall have~~ Have the authority to grant, restrict, suspend or revoke practice or ~~independent~~ prescriptive authority and ~~the Joint Practice Committee with the approval of the Board of Medical Licensure and Discipline shall~~ be responsible for promulgating rules and regulations to implement the provisions of this chapter regarding ~~"advanced practice nurses"~~ advanced practice registered nurses who have been granted authority for independent practice ~~and/or independent~~ or prescriptive authority;

~~(21) The rules and regulations and the granting, restricting, suspension or revocation of the independent practice and/or independent prescriptive authority shall be subject to the approval of the Board of Medical Licensure and Discipline.~~

(21) Have the authority to limit the ability of APRNs to prescribe and order non-pharmacological interventions.

Section 3. Amend Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1932. Advanced Practice Registered Nurse Committee.

(a) The purpose of the Advanced Practice Registered Nurse Committee shall be to:

(1) Advise the Board of Nursing by recommending rules and regulations regarding the practice of advance practice registered nurses; and

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

(3) Draft regulations to be reviewed by the Board of Nursing; and

(4) Review collaborative agreements of Advanced Practice Registered Nurses who seek Independent Practice.

(b) The Committee shall have 9 members and consist of the following:

(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 Medical Licensure and Discipline.

(4) The first Committee Chair shall be one of the 2 APRNs who are members of the Board of Nursing and shall serve for one year, not to succeed himself or herself for more than 2 consecutive terms. The position of committee chair shall then rotate among Committee 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 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 and practice standards, including prescribing trends and provide recommendations to the Board of Nursing regarding APRN practice.

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

a. The Committee shall make its recommendation after evaluating evidence that a graduate advanced practice registered nurse or advanced practice registered nurse 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 healthcare 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 collaboration will not commence until the 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.

§ 1933. Advanced Practice Registered Nurse – Authority and duties.

(a) The Board of Nursing grants full practice and prescriptive authority upon the issuance of an advanced practice registered nurse license. The granting of full practice authority does not equate to the granting of independent practice.

(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 non-pharmacological 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) APRNs 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) APRNs shall obtain approval from the APRN Committee and Board of Nursing pursuant to this chapter in order to practice independently.

§ 1934. 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 pursuant to a collaborative agreement as of July 1, 2015 shall be required to resubmit the collaborative agreement to the Committee, granted credit for any hours accumulated, and required to otherwise comply with the relevant provisions of this chapter in order to obtain independent practice.

Section 4. The Board of Medical Licensure and Discipline and Board of Nursing shall provide to the General Assembly, with a copy to the Division of Research, a report and recommendation regarding the effectiveness of § 1932(f)(4)b. within four years of the date of the enactment of this bill.

SYNOPSIS

This Act creates a new Advanced Practice Registered Nurse ("APRN") Committee to assist the Board of Nursing in the regulation of nursing practice consistent with the national Consensus Model for APRN regulation. Included in the Act are provisions regarding the scope of practice for APRNs and the requirement of collaborative agreements between APRNs and licensed physicians, podiatrists, or licensed Delaware health care delivery systems.

This Act is one of three pieces of legislation which update Chapter 19, Title 24 during the First Session of the 148th General Assembly and is intended to amend Chapter 19 in congruence with Senate Bill 57 and House Bill 69.

This Act also makes technical corrections to conform existing law to the guidelines of the *Delaware Legislative Drafting Manual*.

Author: Senator Hall-Long