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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 221  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Reps. Brinkman and Gross

Elizabeth Molnar, Attorney

### SUMMARY

- Grants an advanced practice registered nurse (APRN) who is a certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife the option to practice without a standard care arrangement and collaborating practitioner if the APRN has practiced in a clinical setting for the longer of 2,000 hours or 12 months.
- Permits an APRN's collaborating practitioner to be not only a physician or podiatrist as under current law, but also an APRN who is not practicing with another collaborator.
- Makes conforming changes to the laws governing APRNs and other health professionals, including the law regarding youth athletics and concussions.
- Eliminates the express prohibition against a certified nurse-midwife treating an abnormal condition, but otherwise maintains the current law list of activities the nurse-midwife may not perform.
- Names the bill the "Better Access, Better Care Act."

### DETAILED ANALYSIS

#### **Advanced practice registered nurse independent practice**

H.B. 221 grants an advanced practice registered nurse (APRN) who is a certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife the option to practice without a standard care arrangement and collaborating practitioner if the nurse has practiced as an APRN in a clinical setting for the longer of 2,000 hours or 12 months.

For an APRN who has not yet reached 2,000 hours or 12 months of clinical practice, the bill maintains the requirement that the nurse enter into a standard care arrangement and practice with a collaborating practitioner. The bill also permits an APRN who has completed 2,000 hours or 12 months of practice in a clinical setting to continue practicing under a

standard care arrangement with one or more collaborating practitioners if the nurse so chooses.<sup>1</sup>

### **Documentation of clinical practice**

An APRN who seeks to practice without a standard care arrangement and collaborating practitioner is required by the bill to submit to the Board of Nursing documentation demonstrating that the nurse did both of the following for the longer of 2,000 hours or 12 months:

- Collaborated with one or more collaborating practitioners under a standard care arrangement;
- Practiced in a clinical setting.<sup>2</sup>

In the case of an APRN who, immediately prior to the bill's effective date, completed 2,000 hours or 12 months of clinical practice under a standard care arrangement with a collaborating physician or podiatrist, the bill directs the Board to consider the nurse as having met the bill's requirements for independent practice. To be eligible for this consideration, the APRN must submit to the Board documentation to that effect not later than six months after the bill's effective date.<sup>3</sup>

### **Licensure by endorsement**

In the case of an APRN who obtained a license by endorsement, the bill directs the Board to accept clinical practice completed in another jurisdiction if the Board determines that the nurse practiced in that jurisdiction in a manner equivalent to practicing under a standard care arrangement with a collaborating practitioner.

### **Rulemaking**

The bill requires the Board to adopt rules as necessary to implement its provisions, including rules specifying the documentation that must be submitted in order to obtain authority to practice independently. The rules are to be adopted in accordance with the Administrative Procedure Act.<sup>4</sup>

### **Collaborating practitioner**

Existing law requires an APRN to practice in collaboration with a physician or podiatrist with whom the nurse has entered into a standard care arrangement.<sup>5</sup> For those APRNs required or authorized by the bill to practice with a collaborator, the bill permits a collaborating

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<sup>1</sup> R.C. 4723.43, 4723.431, and 4723.437.

<sup>2</sup> R.C. 4723.437.

<sup>3</sup> Section 4.

<sup>4</sup> R.C. 4723.487(C); R.C. Chapter 119, not in the bill.

<sup>5</sup> R.C. 4723.43.

practitioner to include not just a physician or podiatrist, but also an APRN who is not practicing with another collaborator.<sup>6</sup>

Current law defines “collaboration” to mean that the collaborating physician or podiatrist is continuously available to communicate with the nurse either in person or by electronic communication. The bill modifies the definition to accommodate its inclusion of independently practicing APRNs as collaborating practitioners.<sup>7</sup>

### **Standard care arrangements**

Under existing law, an APRN must practice in accordance with a standard care arrangement, a written, formal guide for planning and evaluating a patient’s health care that is developed by one or more collaborating physicians or podiatrists and the APRN.<sup>8</sup> It must contain certain information, including the following:

- Criteria for referral of a patient by the nurse to a collaborating physician or podiatrist;
- A process for the nurse to obtain a consultation with a collaborating physician or podiatrist or another physician or podiatrist;
- A plan for coverage in instances of emergency or planned absences of either the nurse or collaborating physician or podiatrist;
- The process for resolving disagreements between the nurse and a collaborating physician or podiatrist regarding matters of patient management.<sup>9</sup>

The bill maintains these requirements, but makes the following three changes to the law governing standard care arrangements. First, it eliminates provisions that allow an APRN to continue to practice under an arrangement without a collaborating practitioner for a period of 120 days in cases where the collaborator terminates the arrangement or the arrangement terminates due to the collaborator’s death.<sup>10</sup> However, in eliminating such provisions, the bill does not address APRNs who are required or authorized by the bill to practice with a collaborator.

Second, it repeals the requirement that the Board of Nursing establish, by rule, criteria specifying an acceptable travel time between the location where the APRN prescribes and the collaborator’s location.<sup>11</sup>

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<sup>6</sup> R.C. 4723.01(M).

<sup>7</sup> R.C. 4723.01.

<sup>8</sup> R.C. 4723.01 and 4723.431.

<sup>9</sup> R.C. 4723.431.

<sup>10</sup> R.C. 4723.431 and 4731.27.

<sup>11</sup> R.C. 4723.50.

Third, the bill eliminates provisions that permit an APRN who specializes in psychiatric or mental health care to enter into an arrangement with a collaborating physician specializing in pediatrics, primary care, or family practice.<sup>12</sup> Current law generally requires the collaborating physician or podiatrist to practice in a specialty that is the same as or similar to the APRN's.<sup>13</sup> Consequently, under the bill, a psychiatric or mental health APRN could enter into an arrangement only with a psychiatrist or a psychiatric or mental health APRN who is not practicing with another collaborator.

### **Quality assurance standards**

Existing law requires the Board of Nursing to adopt rules establishing quality assurance standards for all APRNs, including certified registered nurse anesthetists.<sup>14</sup> The bill instead directs the Board to set by rule quality assurance standards only for certified nurse practitioners, clinical nurse specialists, or certified nurse midwives with less than 2,000 hours or 12 months of clinical practice. Accordingly, under the bill, the Board is not required to establish in rule quality assurance standards for either of the following: APRNs who choose to continue practicing with collaboration or certified registered nurse anesthetists.

### **Youth concussions – assessments and clearances**

When a student or individual exhibits symptoms consistent with a concussion that is sustained while playing in or practicing for an athletic event sponsored by a school district or youth sports organization, current law requires the student or individual to be removed from play or practice.<sup>15</sup> The student or individual cannot return to play or practice until he or she has been (1) assessed by a physician or another licensed health care professional authorized by the school district or youth sports organization to conduct such assessments and (2) cleared to return to play or practice by the physician or other licensed health care professional.

Under current law, a school district or youth sports organization may authorize a licensed health care professional other than a physician to conduct assessments and grant clearances only if the professional acts as follows: (1) in consultation with a physician, (2) pursuant to a physician's referral, (3) in collaboration with a physician, or (4) under the physician's supervision. In the case of a certified nurse practitioner or clinical nurse specialist who is either practicing without a standard care arrangement or eligible to practice without one, the bill removes the condition that the nurse act in collaboration with a physician. Under law unchanged by the bill, a licensed health care professional is an individual, other than a physician, who is authorized under Ohio law to practice a health care profession.<sup>16</sup>

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<sup>12</sup> R.C. 4723.431.

<sup>13</sup> R.C. 4723.431.

<sup>14</sup> R.C. 4723.07.

<sup>15</sup> R.C. 3313.539 and 3707.511.

<sup>16</sup> R.C. 3707.511(A)(2).

## Other changes

Because the bill grants an APRN who is a certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife the option to practice without a collaborating practitioner, it makes various conforming changes to the laws governing nurses and other health professionals.<sup>17</sup>

The bill also addresses the law authorizing an APRN to admit a patient to a hospital, which was in effect at the time of the bill's introduction. However, because the law regarding hospital admissions has been repealed as part of H.B. 110, the biennial budget enacted by the 134<sup>th</sup> General Assembly, an amendment is needed to remove these now obsolete provisions from the bill.<sup>18</sup>

The bill repeals another obsolete provision of statutory law, in particular, the law under which any person holding, as of 1988, a certificate to practice nurse-midwifery issued by the State Medical Board is deemed to be certified by the Board of Nursing.<sup>19</sup> Under law in effect before 1988, nurse-midwives were regulated by the Medical Board.

The bill also repeals the law regarding the division of Medicaid payments between a collaborating physician or podiatrist and an APRN.<sup>20</sup>

## Certified nurse-midwives – scope of practice

In the case of a certified nurse-midwife, the bill eliminates the express prohibition against treating an abnormal condition, while maintaining the current law list of activities a certified nurse-midwife may not perform. These include delivering breech or face presentation, performing version, using forceps, or performing any obstetric operation.<sup>21</sup>

## Advanced pharmacology – course of study

At present, an applicant for a license to practice as a certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife must submit evidence of successfully completing a course of study in advanced pharmacology that is approved by the Board of Nursing in

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<sup>17</sup> R.C. 1751.67 (insurance and maternity benefits), 2133.211 (do-not-resuscitate orders and legal immunity), 3923.233 (insurance reimbursement for services performed by a certified nurse-midwife), 3923.301 (insurance reimbursement for services performed by a certified nurse-midwife), 3923.63 (insurance and maternity benefits), 3923.64 (insurance and maternity benefits), 4723.28 (Board of Nursing disciplinary actions), 4723.42 (APRN license renewals), 4723.44 (unauthorized practice), 4723.481 (APRN prescriptive authority), 4723.50 (Board rules regarding prescriptive authority), 4731.27 (physicians and standard care arrangements), 4761.17 (respiratory care supervision), and 5164.07 (Medicaid and maternity benefits).

<sup>18</sup> R.C. 3727.06.

<sup>19</sup> R.C. 4723.45.

<sup>20</sup> R.C. 5164.73.

<sup>21</sup> R.C. 4723.43.

accordance with standards established by the Board in rule. While the bill maintains the requirement that an applicant complete the course of study, it eliminates the condition that it be completed within the five years before the application for licensure is filed.<sup>22</sup>

### **Board of Nursing quorum**

Under current law, seven Board of Nursing members, including at least four registered nurses (RNs) and one licensed practical nurse, constitute a quorum. The bill requires that, of the four RN members needed for a quorum, at least one must be an APRN.<sup>23</sup>

### **Electronic notice – change of address and intent to practice**

The bill authorizes the holder of a nursing license to give the Board of Nursing electronic notice when informing the Board of a change of address or the nurse’s intent not to practice in Ohio.<sup>24</sup> Existing law provides only for written notice.

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## **HISTORY**

| Action     | Date     |
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| Introduced | 03-17-21 |

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<sup>22</sup> R.C. 4723.482.

<sup>23</sup> R.C. 4723.02.

<sup>24</sup> R.C. 4723.24.