A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 40‑33‑31 SO AS TO PROVIDE THE BOARD OF NURSING MAY GRANT FULL PRACTICE AUTHORITY TO ADVANCED PRACTICE REGISTERED NURSES WHO MEET CERTAIN CRITERIA, TO PROVIDE REQUIREMENTS OF THE BOARD, AND TO PROVIDE DEFINITIONS; BY AMENDING SECTION 40‑33‑20, RELATING TO DEFINITIONS CONCERNING THE PRACTICE OF NURSING, SO AS TO MAKE CONFORMING CHANGES AND OTHER REVISIONS; BY AMENDING SECTION 40‑33‑34, RELATING TO ADVANCED PRACTICE REGISTERED NURSE APPLICATION REQUIREMENTS, PRACTICE AGREEMENTS, ALLOWED MEDICAL ACTS, AND PRESCRIPTIVE AUTHORITY, AMONG OTHER THINGS, SO AS TO MAKE CONFORMING CHANGES AND OTHER CHANGES; BY AMENDING SECTION 40‑33‑42, RELATING TO DELEGATION OF TASKS TO UNLICENSED ASSISTIVE PERSONNEL, SO AS TO MAKE CONFORMING CHANGES; and BY AMENDING SECTION 40‑33‑110, RELATING TO GROUNDS FOR DISCIPLINE OF LICENSEES, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 33, Title 40 of the S.C. Code is amended by adding:

Section 40‑33‑31. (A) The board may grant full practice authority to an APRN who meets the requirements of subsection (B). An APRN who is granted such full practice authority may independently perform medical acts as provided in subsection (E) without a practice agreement.

(B) To attain full practice authority, an APRN shall:

(1) complete two thousand clinical hours in advanced practice nursing after attaining initial licensure as an APRN by the board;

(2) possess malpractice insurance;

(3) attest his compliance with item (1) to the board;

(4) provide documentation of his compliance with item (3) to the board; and

(5) receive full practice authority approval from the board.

(C) An APRN who has received full practice authority shall notify the board of a change in practice settings within fifteen days to indicate practice without a practice agreement.

(D) The board shall timely review an application for full practice authority submitted pursuant to this section to ensure compliance with the requirements of subsection (B)(2) and (3) and shall grant full practice authority to an applicant who has demonstrated such compliance to the satisfaction of the board.

(E) A provision of this chapter or regulation authorized by it that references the applicability or requirement of a practice agreement must be construed to not impose either of those two requirements on an APRN who has attained full practice authority.

(F) For purposes of this chapter, “full practice authority” means authority granted by the board to an APRN pursuant to this section to independently perform specified medical acts and nonmedical acts without a practice agreement including, but not limited to:

(1) ordering and interpreting diagnostic data, assessment, diagnosing, prescribing medications, interventions and therapies under the APRN licensure, and delegating and assigning therapeutic measures to assistive personnel;

(2) prescribing medication, treatments, and therapies as authorized by law including, but not limited to, those listed in Section 40‑33‑34 and notwithstanding federal statute and the Centers for Medicare and Medicaid Services;

(3) performing nonmedical acts considered to be the practice of registered nursing or advanced practice such as population health management, quality improvement or research projects within a healthcare system, and analysis of data and corresponding system recommendations, revisions, developments, or informatics; and

(4) performing acts included under full practice authority as described in National Council State Boards of Nursing Model Practice Act, national scope of practice and standards for advanced practice nursing as published by the national nursing organizations for advanced practice nursing and recognized by the board for advanced practice registered nurses.

SECTION 2. Section 40‑33‑20(3), (5), (11), (17), (18), (20), (44) and (45) of the S.C. Code is amended to read:

(3) “Additional acts” means activities performed by a nurse that expand the scope of practice, as established in law. The following must be submitted in writing to the board for approval before a nurse implements additional acts:

(a) additional activity being requested;

(b) statement with rationale as to how the activity will improve client outcomes;

(c) documentation based on the literature review to support the nurse’s performing the additional activity;

(d) qualification requirements, including educational background and experience needed;

(e) special training required, including theory and clinical practice. A nurse must successfully complete a course of “special education and training” acceptable to the board to perform additional acts; and

(f) evaluation and follow‑up procedures.

Additional acts that constitute medical acts must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners except for an APRN whom the board has granted full practice authority by the Board of Nursing pursuant to Section 40‑33‑31.

(5) “Advanced Practice Registered Nurse” or “APRN” means a registered nurse who is prepared for an advanced practice registered nursing role by virtue of additional knowledge and skills gained through an advanced formal education program of nursing in a specialty area that is approved by the board. The categories of APRN are nurse practitioner, certified nurse‑midwife, clinical nurse specialist, and certified registered nurse anesthetist. An advanced practice registered nurse shall hold a doctorate, a post‑nursing master’s nursing certificate, or a minimum of a master’s degree that includes advanced education composed of didactic and supervised clinical practice in a specific area of advanced practice registered nursing. APRNs must achieve national certification within two years post‑graduation. An APRN may perform those activities considered to be the practice of registered nursing or advanced practice consisting of nonmedical acts, such as population health management; quality improvement or research projects within a healthcare system; and analysis of data and corresponding system recommendations, revisions, developments, or informatics. An APRN who has not been granted full practice authority also may perform specified medical acts pursuant to a practice agreement as defined in item (45).

(11) “Authorized licensed provider” means a provider of healthcare services who is authorized to practice by a licensing board in this State where the scope of practice includes authority to order and prescribe drugs, interventions, or therapies in treating patients.

(17) “Certification” of a registered nurse or APRN means approval by an established body, other than the board, but recognized by the board, that recognizes the unique, minimal requirements of specialized areas of nursing practice. Certification requires completion of a recognized formal program of study and specialty board examination, if the specialty board exists, and certification of competence in nursing practice by the certifying agency.

(18) “Certified Nurse‑Midwife” or “CNM” means an advanced practice registered nurse who holds a minimum of a master’s degree in the specialty area from a program accredited by the American Commission for Midwifery Education (ACME) or another accredited program as approved by the board, and maintains an American Midwifery Certification Board certificate,. A CNMand is trained to provide management of women’s healthcare from adolescence beyond menopause, focusing on gynecologic and family planning services, preconception care, pregnancy, childbirth, postpartum, care of the normal newborn during the first twenty‑eight days of life, and the notification and treatment of partners for sexually transmitted infections.

(20) “Clinical Nurse Specialist” or “CNS” means an advanced practice registered nurse who is a clinician with a high degree of knowledge, skill, and competence in a practice discipline of nursing. This nurse shall hold a minimum of a master’s degree education in nursing, with an emphasis in clinical nursing. These nurses are directly available to the public through the provision of nursing care to clients and indirectly available through guidance and planning of care with other nursing personnel. A CNS who performs medical acts is required to have physician support and to practice pursuant to a practice agreement as defined in item (45). A CNS who does not perform medical acts is not required to have physician support or to practice pursuant to a practice agreement as provided in Section 40‑33‑34.

(40) “Nurse Practitioner” or “NP” means a registered nurse who has completed an advanced formal education program at the master’s level, post-master’s certificate, or doctoral level acceptable to the board, and who demonstrates advanced knowledge and skill in assessment and management of physical and psychosocial health, illness status of persons, families, and groups. Nurse practitioners who perform medical acts must do so pursuant to a practice agreement as defined in item (45).

(44) “Physician” means a physician licensed by the South Carolina Board of Medical Examiners who possesses an active, unrestricted, permanent license to practice medicine in this State and who actively is practicing within the geographic boundaries of this State.

(45) “Practice agreement” means a written agreement developed by an NP, CNM, or CNS and a physician or medical staff who agrees to work with and to support the NP, CNM, or CNS. The practice agreement must establish the medical aspects of care to be provided by the NP, CNM, or CNS, including the prescribing of medications. The practice agreement must contain mechanisms that allow the physician to ensure that quality of clinical care and patient safety is maintained in accordance with state and federal laws, as well as all applicable Board of Nursing and Board of Medical Examiners rules and regulations. The practice agreement must comply with Section 40‑33‑34. A CNM also may practice pursuant to written policies and procedures for practice developed and agreed to with a physician who is board certified or board eligible by the American College of Obstetricians and Gynecologists. Written policies and procedures constitute a practice agreement for purposes of compliance with Section 40‑33‑34 and must address medical aspects of care including prescriptive authority and must contain transfer policies and details of the on‑call agreement with the physician with whom the policies and procedures were developed and agreed. The on‑call physician has the authority to designate another qualified physician to be the on‑call physician if necessary. The on‑call physician must be available to the CNM to provide medical assistance in person, by telecommunications, or by other electronic means. The provisions of this item do not apply to an APRN who has been granted full practice authority pursuant to Section 40‑33‑31.

SECTION 3. Section 40‑33‑34 of the S.C. Code is amended to read:

Section 40‑33‑34. (A) An advanced practice registered nurse applicant shall furnish evidence satisfactory to the board that the applicant:

(1) has met all qualifications for licensure as a registered nurse; and

(2) holds current specialty certification in advanced practice nursing by a board‑approved credentialing organization. New graduates shall provide evidence of national certification in advanced practice nursing within one year of program completion; however, psychiatric clinical nurse specialists shall provide evidence of certification within two years of program completion; and

(3) has earned a minimum of a master’s degree, post‑master’s degree, or doctoral degree from an accredited college or university, except for those applicants who:

(a) provide documentation as requested by the board that the applicant was graduated from an advanced, organized formal education program appropriate to the practice of nursing and acceptable to the board before December 31, 1994; or

(b) graduated before December 31, 2003, from an advanced, organized formal education program for nurse anesthetists accredited by the national accrediting organization of that specialty. CRNAs who graduate after December 31, 2003, must graduate with a minimum of a master’s degree from a formal CRNA education program for nurse anesthetists accredited by the national accreditation organization of the CRNA specialty. An advanced practice registered nurse must achieve and maintain national certification, as recognized by the board, in an advanced practice registered nursing specialty;

(4) has paid the board all applicable fees; and

(5) has declared specialty area of nursing practice and the specialty title to be used must be the title which is granted by the board‑approved credentialing organization or the title of the specialty area of nursing practice in which the nurse has received advanced educational preparation.

(B) An APRN is subject, at all times, to the scope and standards of practice established by the board‑approved credentialing organization representing the specialty area of practice and shall function within the scope of practice of this chapter and must not be in violation of Chapter 47.

(C) A licensed nurse practitioner, certified nurse‑midwife, or clinical nurse specialist who does not have full practice authority must provide evidence of a practice agreement, as provided in this section. A licensed NP, CNM, or CNS who does not have full practice authority must spend a portion of his time practicing in an underserved or rural area or serving an underserved population as defined in Section 40‑33‑20. A licensed NP, CNM, or CNS who does not have full practice authority and is performing medical acts must do so pursuant to a practice agreement with a physician who must be readily available for consultation.

(D)(1) Medical acts performed by a nurse practitioner or clinical nurse specialist must be performed pursuant to a practice agreement between the nurse and the physician or medical staff or by an APRN with full practice authority. The A practice agreement must include, but is not limited to:

(a) the following general information:

(i) name, address, and South Carolina license number of the nurse;

(ii) name, address, and South Carolina license number of the physician;

(iii) nature of practice and practice locations of the nurse and physician;

(iv) date the practice agreement was entered into and dates the practice agreement was reviewed and amended; and

(v) description of how consultation with the physician is provided and provision for backup consultation if the physician is unavailable; and

(b) the following information for medical acts:

(i) medical conditions for which therapies may be initiated, continued, or modified;

(ii) treatments that may be initiated, continued, or modified;

(iii) drug therapies that may be prescribed; and

(iv) situations that require direct evaluation by or referral to the physician.

(2) Notwithstanding any provisions of state law other than this chapter and Chapter 47, and to the extent permitted by federal law, the following medical acts may be performed by an APRN practicing pursuant to a practice agreement may perform the following medical acts unless otherwise provided in the practice agreement or an APRN with full practice authority:

(a) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

(b) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

(c) refer a patient to physical therapy for treatment;

(d) pronounce death, certify the manner and cause of death, and sign death certificates pursuant to the provisions of Chapter 63, Title 44 and Chapter 8, Title 32;

(e) issue an order for a patient to receive appropriate services from a licensed hospice or palliative care service or program pursuant toas defined in Chapter 71, Title 44;

(f) certify that an individual is handicapped and declare that the handicap is temporary or permanent for purposes of the individual’s application for a placard;

(g) execute a do not resuscitate order or physicians order for scope of treatment order pursuant to the provisions of Chapter 78, Title 44; and

(h) issue an order for home health services pursuant to the provisions of Chapter 69, Title 44;

(i) delegate certain tasks to certified medical assistants as authorized in Section 40‑47‑106;

(j) commit a patient to a psychiatric facility if the patient is unable to consent and if an NP or a CNS determines that a patient is a danger to himself or another person;

(k) holds admitting privileges in collaboration with a physician within an acute care facility, or if a CNM in a licensed birthing center, or both;

(l) if an NP, engage in ionized fluoroscopy as authorized by the Department of Environmental Services;

(m) order or prescribe incontinence supplies or other supplies and sign forms for such supplies as authorized by the Department of Health and Human Services;

(n) determine and certify medical necessity as designated by the Department of Health and Human Services; and

(o) certify a School Employee Certificate of Evaluation for Tuberculosis and other forms as authorized by the Department of Public Health.

(3) For APRNs who have not been granted full practice authority, the original practice agreement and any amendments to it must be reviewed at least annually, dated and signed by the nurse and physician, and made available to the board for review within seventy‑two hours of request. Failure to produce a practice agreement upon request of the board is considered misconduct and subjects the licensee to disciplinary action. A random audit of a practice agreement must be conducted by the board at least biennially.

(4) Licensees without full practice authority who change practice settings or physicians shall notify the board of the change within fifteen business days and provide verification of a practice agreement. NPs, CNMs, and CNSs who discontinue their practice shall notify the board within fifteen business days.

(E)(1) An NP, CNM, or CNS who applies for prescriptive authority:

(a) must be licensed by the board as a nurse practitioner, certified nurse‑midwife, or clinical nurse specialist;

(b) shall submit a completed application on a form provided by the board;

(c) shall submit the required fee;

(d) shall provide evidence of completion of forty‑five contact hours of education in pharmacotherapeutics acceptable to the board, within two years before application or during the time of the organized educational program shall provide evidence of prescriptive authority in another state meeting twenty hours in pharmacotherapeutics acceptable to the board, within two years before application;

(e) shall provide at least fifteen hours of education in controlled substances acceptable to the board as part of the twenty hours required for prescriptive authority if the NP, CNM, or CNS has equivalent controlled substance prescribing authority in another state;

(f) shall provide at least fifteen hours of education in controlled substances acceptable to the board as part of the forty‑five contact hours required for prescriptive authority if the NP, CNM, or CNS initially is applying to prescribe in Schedules II through V controlled substances.

(2) The board shall issue an identification number to the NP, CNM, or CNS authorized to prescribe medications. Authorization for prescriptive authority is valid for two years unless terminated by the board for cause. Initial authorization expires concurrent with the expiration of the Advanced Practice Registered Nurse license.

(3) Authorization for prescriptive authority must be renewed after the applicant meets requirements for renewal and provides documentation of twenty hours acceptable to the board of continuing education contact hours every two years in pharmacotherapeutics. For a NP, CNM, or CNS with controlled substance prescriptive authority, two of the twenty hours must be related to prescribing controlled substances.

(F)(1) For APRNs with full practice authority, or as otherwise authorized in the APRN’s practice agreement when applicable, authorized prescriptions or institutional facility orders by a nurse practitioner, certified nurse‑midwife, or clinical nurse specialist with prescriptive authority:

(a) must comply with all applicable state and federal laws and executive orders;

(b) is limited to drugs, therapies, and devices utilized to treat medical problems within the specialty field of the nurse practitioner, certified nurse midwife, or clinical nurse specialist, or as otherwise prescribed in the practice agreement;

(c) may include Schedules III through V controlled substances for APRNs with full practice authority, or if listed in the practice agreement and as authorized by Section 44‑53‑300 for APRNs under a practice agreement;

(d) may include Schedule II nonnarcotic substances for APRNs with full practice authority or if listed in the practice agreement and as authorized by Section 44‑53‑300, provided, however, that each such prescription must not exceed a thirty‑day supply for APRNs under a practice agreement;

(e) may include Schedule II narcotic substances for APRNs with FPA and for APRNs under practice agreements or if listed in the practice agreement and as authorized by Section 44‑53‑300, provided, however, that the prescription must not exceed a five‑day supply. However, another prescription may be written for a thirty-day supply if the prescription is written by an authorized provider for a patient at a chronic pain management facility, under a hospice or palliative care program or service, or residing in a long-term care facility for further treatment. and another prescription must not be written without the written agreement of the physician with whom the nurse practitioner, certified nurse‑midwife, or clinical nurse specialist has entered into a practice agreement, unless the prescription is written for patients in hospice or palliative care or for patients residing in long‑term care facilities;

(f) may include Schedule II narcotic substances for APRNs with full practice authority and for APRNs under practice agreements if listed in the practice agreement for patients in hospice or palliative care, program or service, or for patients in long‑term care facilities, if listed in the practice agreement as authorized by Section 44‑53‑300, provided, however, that each such prescription must not exceed a thirty‑day supply;

(g) may include ordering narcotic and nonnarcotic substances Schedules II‑V in acute care facilities or licensed birthing centers for CNMs;

(h) may include ordering narcotic and nonnarcotic substances Schedules II‑V in acute care facilities for NPs and CNS;

(i) A CNM may purchase, dispense, prescribe, and administer Schedule II controlled substances in licensed birthing centers.

(j) A CNM may order, administer, and monitor effects of Schedule II‑V substances in the care of the inpatient persons in labor, postpartum, and gynecological care in accordance with federal and state laws, and institutional policies and procedures;

(g)(k) must be signed or electronically submitted by the NP, CNM, or CNS with the prescriber’s identification number assigned by the board and all prescribing numbers required by law. Written prescription forms must include the name, address, and phone number of the NP, CNM, or CNS and physician. For APRNs practicing under a practice agreement, electronic prescription forms must include the name, address, and phone number of the NP, CNM, or CNS and, if possible, the physician through the electronic system. All prescriptions must comply with the provisions of Section 39‑24‑40. A prescription must designate a specific number of refills and may not include a nonspecific refill indication; and

(h)(l) must be documented in the patient record of the practice and must be available for review and audit purposes.

(2) An NP, CNM, or CNS who holds prescriptive authority may request, receive, and sign for professional samples and may distribute professional samples to patients as listed in the practice agreement, subject to federal and state regulations.

(G) Prescriptive authorization may be terminated by the board if an NP, CNM, or CNS with prescriptive authority has:

(1) not maintained certification in the specialty field;

(2) failed to meet the education requirements for pharmacotherapeutics;

(3) prescribed outside the scope of the practice agreement;

(4) violated a provision of Section 40‑33‑110; or

(5) violated any state or federal law or regulations applicable to prescriptions.

(H)(1) Nothing in this section may be construed to require a CRNA to obtain prescriptive authority to deliver anesthesia care.

(2) A CRNA shall practice pursuant to approved written guidelines developed with the supervising licensed physician or dentist or by the medical staff within the facility where practice privileges have been granted and must include, but are not limited to:

(a) the following general information:

(i) name, address, and South Carolina license number of the registered nurse;

(ii) name, address, and South Carolina license number of the supervising physician, dentist, or the physician director of anesthesia services or the medical director of the facility;

(iii) dates the guidelines were developed, and dates the guidelines were reviewed and amended;

(iv) physical address of the primary practice and any additional practice sites;

(b) these requirements for providing anesthesia services:

(i) documentation of clinical privileges in the institutions where anesthesia services are provided, if applicable;

(ii) copy of job description;

(iii) policies and procedures that outline the pre‑anesthesia evaluation, induction, intra‑operative maintenance, and emergence from anesthesia;

(iv) evidence of outcome evaluation for anesthesia services.

(3) The original and any amendments to the approved written guidelines must be reviewed at least annually, dated and signed by the CRNA and physician or dentist, and must be made available to the board for review within seventy‑two hours of request. Failure to produce the guidelines is considered misconduct and subjects the licensee to disciplinary action. A random audit of approved written guidelines must be conducted by the board at least biennially.

(4) A person who changes primary practice settings or physician or dentist shall notify the board of this change within fifteen business days and provide verification of approved written guidelines. A CRNA who discontinues his or her practice shall notify the board within fifteen business days.

(5) The physician or dentist responsible for the supervision of a CRNA must be identified on the anesthesia record before administration of anesthesia.

(I)(1) For purposes of this subsection:

(a) “Telemedicine” has the same meaning as provided in Section 40‑47‑20.

(b) “Unprofessional conduct” has the same meaning as provided in Section 40‑33‑20(64).

(2) An APRN may perform medical acts via telemedicine and telehealth pursuant to a practice agreement as defined in Section 40‑33‑20(45) without having to be licensed to practice medicine in this State as otherwise required in Section 40‑47‑37(A)(4).

(3) An APRN who establishes a nurse‑patient relationship solely by means of telemedicine shall adhere to the same standard of care as a licensee employing more traditional in‑person medical care. Failure to conform to the appropriate standard of care is considered unprofessional conduct and may be subject to enforcement by the board.

(4) An APRN may not establish a nurse‑patient relationship by means of telemedicine for the purpose of prescribing medication when an in‑person physical examination is necessary for diagnosis.

(5) An APRN who establishes a nurse‑patient relationship solely by means of telemedicine only may prescribe within a practice setting fully in compliance with this chapter and during an encounter in which threshold information necessary to make an accurate diagnosis is obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II through V prescriptions are only permitted pursuant to a practice agreement as defined in Section 40‑33‑20(45) or by an APRN who has been granted full practice authority and nothing in this item may be construed to authorize the prescribing of medications via telemedicine that otherwise are restricted by the limitations in Section 40‑47‑37(C)(6) unless approved by a joint committee of the Board of Medical Examiners and except as approved by the Board of Nursing.

(6) An APRN who establishes a nurse‑patient relationship solely by means of telemedicine shall generate and maintain medical records for each patient using those telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including the provisions of this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). These records must be accessible to other practitioners and to the patient in a timely fashion when lawfully requested by the patient or his lawfully designated representative.

(7) The provisions of this subsection may not be construed to allow an APRN to perform services beyond the scope of what is authorized by Chapter 33, Title 40 and Chapter 47, Title 40.

SECTION 4. Section 40‑33‑42(C) of the S.C. Code is amended to read:

(C) Subject to the rights of licensed physicians and dentists under state law, and except as provided in Section 40‑47‑196 regarding the delegation of tasks to certified medical assistants, the administration of medications is the responsibility of a licensed nurse as prescribed by the licensed physician, dentist, APRN, other authorized licensed provider or as authorized in an approved written protocol or guidelines. Unlicensed assistive personnel must not administer medications, except as otherwise provided by law.

SECTION 5. Section 40‑33‑110(A)(27) of the S.C. Code is amended to read:

(27) engaged in practice as an NP, CNS, or CNM without a compliant practice agreement as defined in Section 40‑33‑20(45) or full practice authority;

SECTION 6. This act takes effect upon approval by the Governor.

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