

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 25 Session of 2017

INTRODUCED BY BARTOLOTTA, SCARNATI, BAKER, SCAVELLO,  
 RESCHENTHALER, SCHWANK, YUDICHAK, HUTCHINSON, LANGERHOLC,  
 HAYWOOD, LAUGHLIN, STEFANO, FOLMER, McILHINNEY, BLAKE,  
 McGARRIGLE, LEACH, TARTAGLIONE, FONTANA, BOSCOLA, YAW, COSTA,  
 ARGALL, SABATINA, WHITE, STREET, WILLIAMS, RAFFERTY, WAGNER  
 AND HUGHES, FEBRUARY 15, 2017

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
 FEBRUARY 15, 2017

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, for State Board of Nursing, for  
 9 dietitian-nutritionist license required, for temporary  
 10 practice permit, for graduates of schools of other states,  
 11 territories or Dominion of Canada, for certified registered  
 12 nurse practitioners, for scope of practice for certified  
 13 registered nurse practitioners, for prescriptive authority  
 14 for certified registered nurse practitioners, for Drug Review  
 15 Committee and for professional liability; and providing for  
 16 the expiration of the State Board of Nursing's power to  
 17 license certified registered nurse practitioners.

18 The General Assembly of the Commonwealth of Pennsylvania  
 19 hereby enacts as follows:

20 Section 1. Section 2(1), (10), (12) and (14) of the act of  
 21 May 22, 1951 (P.L.317, No.69), known as The Professional Nursing  
 22 Law, are amended and the section is amended by adding paragraphs  
 23 to read:

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

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

15 \* \* \*

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

21 (i) tube feedings;  
22 (ii) specialized intravenous solutions;  
23 (iii) specialized oral solutions; and  
24 (iv) interactions of prescription drugs with food or  
25 nutrients.

26 \* \* \*

27 [(12) "Certified registered nurse practitioner" means a  
28 registered nurse licensed in this Commonwealth who is certified  
29 by the board in a particular clinical specialty area.]

30 \* \* \*

1 [(14) "Drug Review Committee" means the committee  
2 established in section 8.4 whose function is to approve or  
3 disapprove, by addition or deletion, the categories of drugs  
4 that may be prescribed by certified registered nurse  
5 practitioners.]

6 \* \* \*

7 (16) "Certified nurse practitioner" or "advanced practice  
8 registered nurse-certified nurse practitioner" means a  
9 registered nurse licensed in this Commonwealth to practice  
10 independently in a particular clinical specialty area or  
11 population focus in which the registered nurse is certified.

12 (17) "Population focus" means a category of the population  
13 within which a certified nurse practitioner practices, including  
14 family/individual across the lifespan, adult-gerontology,  
15 neonatal, pediatrics, women's health/gender-related,  
16 psychiatric/mental health and any other such categories as  
17 designated by board regulations.

18 (18) "Controlled substance" means a drug designated as a  
19 controlled substance under the act of April 14, 1972 (P.L.233,  
20 No.64), known as the "Controlled Substance, Drug, Device and  
21 Cosmetic Act."

22 (19) "Nonproprietary drug" means a drug containing a  
23 quantity of a controlled substance or a drug which is required  
24 by an applicable Federal or State law to be dispensed only by  
25 prescription.

26 (20) "Proprietary drug" means a nonprescription, non-  
27 narcotic medicine or drug which may be sold without a  
28 prescription and which is prepackaged for use by the consumer  
29 and labeled in accordance with the requirements of the statutes  
30 and regulations of the Federal Government and this Commonwealth.

1     (21) "Licensed independent practitioner" means a  
2 practitioner licensed under this act to provide care and  
3 services, without direction or supervision, within the scope of  
4 the practitioner's license.

5     Section 2. Sections 2.1(1), 3.1(b), 4.1, 7(b), 8.1, 8.2,  
6 8.3, 8.4 and 8.7 of the act are amended to read:

7     Section 2.1. State Board of Nursing.--\* \* \*

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

20     Section 3.1. Dietitian-Nutritionist License Required.--\* \* \*

21     (b) Nothing in this section shall be construed to require or  
22 preclude third-party insurance reimbursement. Nothing herein  
23 shall preclude an insurer or other third-party payor from  
24 requiring that a licensed dietitian-nutritionist obtain a  
25 referral from a licensed physician, certified nurse  
26 practitioner, dentist or podiatrist or that a licensed  
27 dietitian-nutritionist file an evaluation and treatment plan  
28 with the insurer or third-party payor as a precondition of  
29 reimbursement.

30     Section 4.1. Temporary Practice Permit.--(a) In order for a

1 person to practice professional nursing during the one (1) year  
2 period from completion of his or her education program or the  
3 one (1) year period from the application for licensure by a  
4 person who holds a current license issued by any other state,  
5 territory or possession of the United States or the Dominion of  
6 Canada, the Board may issue a temporary practice permit which is  
7 nonrenewable and valid for a period of one (1) year and during  
8 such additional period as the Board may in each case especially  
9 permit, except that the temporary practice permit shall expire  
10 if such person fails the licensing examination.

11 (b) Within ninety (90) days of the date a temporary practice  
12 permit to practice as a certified nurse practitioner is issued  
13 by the board to an individual who was licensed or certified by  
14 another state, territory or possession of the United States or a  
15 foreign country, the individual shall comply with the  
16 requirements under sections 8.2 and 8.3 with regard to acting in  
17 collaboration with a physician and in accordance with a  
18 collaborative or written agreement with a physician, unless such  
19 individual qualifies for the exception from the collaboration  
20 requirement according to the board under section 8.1(1).

21 Section 7. Graduates of Schools of Other States, Territories  
22 or Dominion of Canada.--\* \* \*

23 (b) The Board may issue a [certification to registered nurse  
24 practitioners who have] license as a certified nurse  
25 practitioner to a registered nurse who has completed a course of  
26 study considered by the Board to be equivalent to that required  
27 in this State at the time such course was completed or who is  
28 licensed or certified by another state, territory or possession  
29 of the United States or a foreign country as deemed equivalent  
30 to Pennsylvania's [certification] licensure requirements in

1 accordance with the [joint] rules and regulations of the [Boards  
2 of Nursing and Medicine] board.

3 \* \* \*

4 Section 8.1. [Certified Registered Nurse Practitioners;  
5 Qualifications.--(a) The board may certify a licensed  
6 registered nurse as a certified registered nurse practitioner in  
7 a particular clinical specialty area if the nurse satisfies the  
8 requirements established by this act and regulations promulgated  
9 by the board. Certification of a nurse by the board shall expire  
10 on the same date as the license of that nurse expires.

11 (b) (1) Beginning on the effective date of this section, a  
12 nurse shall not qualify for initial certification by the board  
13 under subsection (a) unless the nurse:

14 (i) is a graduate of an accredited, board-approved master's  
15 or post-master's nurse practitioner program; and

16 (ii) holds certification as a certified registered nurse  
17 practitioner from a board-recognized national certification  
18 organization which required passing of a national certifying  
19 examination in the particular clinical specialty area in which  
20 the nurse is seeking certification by the board.

21 (2) This subsection shall not apply to a nurse who:

22 (i) holds certification from the board as a certified  
23 registered nurse practitioner on the effective date of this  
24 subsection; or

25 (ii) would otherwise qualify for certification as a  
26 certified registered nurse practitioner under section 7(b).

27 (3) In order to provide a transition period for persons who  
28 completed or were enrolled in an approved educational program on  
29 the effective date of this section and to permit those persons  
30 to apply for certification under the rules in existence

1 immediately prior to the effective date of this section, the  
2 board shall issue initial certification to any person who,  
3 within two (2) years of the effective date of this section:

4 (i) submits evidence of having completed or been enrolled in  
5 an approved educational program on the effective date of this  
6 section; and

7 (ii) fulfills all administrative requirements of the board  
8 and possesses all of the other qualifications for certification  
9 in effect immediately prior to the effective date of this  
10 section.

11 (c) As a condition for biennial renewal of certification by  
12 the board, a certified registered nurse practitioner must, in  
13 the two (2) years prior to renewal, complete at least thirty  
14 (30) hours of continuing education approved by the board. In the  
15 case of a certified registered nurse practitioner who is  
16 prescribing medical therapeutic or corrective measures pursuant  
17 to section 8.3, that continuing education must include at least  
18 sixteen (16) hours in pharmacology in that two-year period.]

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

1 (e) Except as provided in subsection (d), a person shall not  
2 qualify for an initial license as a certified nurse practitioner  
3 on or after the effective date of this subsection unless the  
4 person meets the following criteria:

5 (1) Holds a current license in this Commonwealth as a  
6 registered nurse.

7 (2) Is a graduate of an accredited, board-approved master's  
8 or post-master's nurse practitioner program.

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

14 (f) (1) An initial license under subsection (d) as a  
15 certified nurse practitioner shall expire on the same date as  
16 the nurse's then current license as a registered nurse is  
17 scheduled to expire. The license as a certified nurse  
18 practitioner shall thereafter be renewed biennially on the same  
19 date as the nurse's license as a registered nurse.

20 (2) An initial license under subsection (e) or section 7(b)  
21 as a certified nurse practitioner shall expire on the same date  
22 as the nurse's then current license as a registered nurse is  
23 scheduled to expire. The license as a certified nurse  
24 practitioner shall thereafter be renewed biennially on the same  
25 date as the nurse's license as a registered nurse.

26 (3) As a condition for biennial renewal by the board of a  
27 license as a certified nurse practitioner, the nurse must do all  
28 of the following:

29 (i) Maintain a current license in this Commonwealth as a  
30 registered nurse.

1 (ii) Maintain current certification through a board-  
2 recognized national certification program in the particular  
3 clinical specialty area or population focus in which the nurse  
4 is licensed as a certified nurse practitioner by the board.

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

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

24 (h) (1) The use of the terms "certified registered nurse  
25 practitioner," "registered nurse practitioner," "certified nurse  
26 practitioner" and "nurse practitioner" in any other act shall be  
27 deemed to include a person licensed as a certified nurse  
28 practitioner under this section or section 7(b).

29 (2) A registered nurse who is licensed by the board as a  
30 certified nurse practitioner in a particular clinical specialty

1 area or population focus is entitled to use the title "advanced  
2 practice registered nurse-certified nurse practitioner" and the  
3 letters "A.P.R.N.-C.N.P." It shall be unlawful for any other  
4 person to use the title "advanced practice registered nurse-  
5 certified nurse practitioner" or the letters "A.P.R.N.-C.N.P."

6 (i) (1) A certified nurse practitioner may form a  
7 professional corporation with one or more of the following:

8 (i) Other registered nurses.

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

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

20 (j) A certified nurse practitioner who has engaged in the  
21 practice of professional nursing as a certified nurse  
22 practitioner or certified registered nurse practitioner in  
23 collaboration with a physician for a period of not less than  
24 three (3) years and not less than three thousand six hundred  
25 (3,600) hours in accordance with a collaborative or written  
26 agreement with a physician as required under sections 8.2 and  
27 8.3 shall not be subject to the requirement that the certified  
28 nurse practitioner act in collaboration with a physician or in  
29 accordance with a collaborative or written agreement with a  
30 physician as required under sections 8.2 and 8.3.

1 (k) A certified nurse practitioner who qualifies for the  
2 exception from the collaboration requirement as provided under  
3 this section shall file a form with the board attesting to  
4 having engaged in the practice of professional nursing in  
5 collaboration with a physician for a period of not less than  
6 three (3) years and not less than three thousand six hundred  
7 (3,600) hours under subsection (j). Such form shall be developed  
8 by the board by regulation.

9 (l) A registered nurse who was licensed or certified by  
10 another state, territory or possession of the United States or a  
11 foreign country and received a license as a certified nurse  
12 practitioner issued by the board or a temporary practice permit  
13 to practice as a certified nurse practitioner under section 4.1  
14 may qualify for the exception from the collaboration requirement  
15 as provided under this section if the certified nurse  
16 practitioner satisfactorily demonstrates to the board the  
17 completion of no less than three (3) years and no less than  
18 three thousand six hundred (3,600) hours of practice in  
19 collaboration with a physician deemed equivalent to the  
20 requirements under subsection (j), which occurred in  
21 Pennsylvania or in one or more other states, territories or  
22 possessions of the United States or foreign countries where the  
23 certified nurse practitioner was previously, or is currently,  
24 licensed.

25 Section 8.2. Scope of Practice for Certified [Registered]  
26 Nurse Practitioners.--(a) A certified [registered] nurse  
27 practitioner [while functioning in the expanded role as a  
28 professional nurse] shall practice within the scope of practice  
29 of the particular clinical specialty area or population focus  
30 in which the nurse is [certified] licensed by the board.

1 Notwithstanding any other provision of law, a certified nurse  
2 practitioner is entitled to all of the following:

3 (1) To practice as a licensed independent practitioner  
4 within the scope of practice of the particular clinical  
5 specialty area or population focus in which the nurse is  
6 licensed by the board.

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

9 (b) [A] Except as provided under section 8.1(j), a certified  
10 [registered] nurse practitioner may perform acts of medical  
11 diagnosis in collaboration with a physician and in accordance  
12 with regulations promulgated by the board.

13 (c) Except as provided in subsection (c.1), a certified  
14 [registered] nurse practitioner may prescribe medical  
15 therapeutic or corrective measures if the nurse is acting in  
16 accordance with the provisions of section 8.3.

17 (c.1) [Except as limited by subsection (c.2), and in] In  
18 addition to existing authority, a certified [registered] nurse  
19 practitioner shall have authority to do all of the following,  
20 provided that the certified nurse practitioner is acting within  
21 the scope of the certified [registered] nurse practitioner's  
22 collaborative or written agreement with a physician, except as  
23 provided under section 8.1(j), and the certified [registered]  
24 nurse practitioner's [specialty] certification:

25 (1) Order home health and hospice care.

26 (2) Order durable medical equipment.

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

30 (4) Make physical therapy and dietitian referrals.

1 (5) Make respiratory, speech and occupational therapy  
2 referrals.

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

5 (7) Issue homebound schooling certifications.

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

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

10 (1) Supersede the authority of the Department of Health and  
11 the Department of Public Welfare to regulate the types of health  
12 care professionals who are eligible for medical staff membership  
13 or clinical privileges.

14 (2) Restrict the authority of a health care facility to  
15 determine the scope of practice and supervision or other  
16 oversight requirements for health care professionals practicing  
17 within the facility.] Notwithstanding any provision of the act  
18 of July 19, 1979 (P.L.130, No.48), known as the "Health Care  
19 Facilities Act," that may be to the contrary, no regulation or  
20 order of the Department of Health, the Department of Human  
21 Services or the Insurance Department shall supersede the  
22 decision of the governing body of a health care facility that  
23 the types of health care professionals who are eligible for  
24 medical staff membership or clinical privileges at the facility  
25 include certified nurse practitioners when practicing as  
26 licensed independent practitioners.

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

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

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

8 (2) (i) except as provided under subparagraph (ii), is  
9 acting in collaboration with a physician as set forth in a  
10 written agreement which shall, at a minimum, identify the  
11 following:

12 [(i)] (A) the area of practice in which the nurse is  
13 certified;

14 [(ii)] (B) the categories of drugs from which the nurse may  
15 prescribe or dispense; and

16 [(iii)] (C) the circumstances and how often the  
17 collaborating physician will personally see the patient; or

18 (ii) if the certified nurse practitioner qualifies for the  
19 exception from the collaboration requirement as provided under  
20 section 8.1(j), is practicing within a clinical specialty area  
21 or population focus in which the nurse is certified; and

22 (3) is acting in accordance with regulations promulgated by  
23 the board.

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

1 from the categories of authorized drugs in accordance with the  
2 provisions of section 8.4] proprietary and nonproprietary drugs,  
3 subject to any restrictions imposed by board regulations or by  
4 Federal law.

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

8 (1) The Secretary of Health or, at the discretion of the  
9 Secretary of Health, the Physician General as his or her  
10 designee, who shall act as chairman.

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

14 (3) Two licensed physicians who are actively engaged in  
15 clinical practice, appointed to three-year terms by the  
16 Secretary of Health, at least one of whom shall, at the time of  
17 appointment, be collaborating with one or more certified  
18 registered nurse practitioners in accordance with section 8.3(a)  
19 (2).

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

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

30 (2) Within sixty (60) days of a submission by the board

1 under paragraph (1), a majority of the Drug Review Committee  
2 shall vote to approve or disapprove the proposed change.

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

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

16 (b) A certified nurse practitioner who qualifies for the  
17 exception from the collaboration requirement under section  
18 8.1(j) and operates without collaboration shall satisfy the  
19 liability coverage requirement under subsection (a) by  
20 maintaining an individual policy in the certified nurse  
21 practitioner's own name.

22 Section 3. The authority of the board to certify a licensed  
23 registered nurse as a certified registered nurse practitioner  
24 shall expire on the effective date of this section.

25 Section 4. Within 90 days after the effective date of this  
26 section, the State Board of Nursing, the Department of Health,  
27 the Department of Human Services and other affected agencies  
28 shall initiate the promulgation of any regulations necessary to  
29 carry out this amendatory act. The promulgation of those  
30 regulations shall not be a condition precedent to the

1 applicability of any such amendments.

2 Section 5. This act shall take effect in 60 days.