

1 **NURSE PRACTITIONER AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David P. Hinkins**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill allows an advanced practice registered nurse to prescribe a schedule II or III
10 controlled substance without supervision by a consulting physician.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ allows an advanced practice registered nurse to prescribe a schedule II or III
14 controlled substance without supervision by a consulting physician; and
- 15 ▶ makes technical and conforming amendments.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **58-31b-102**, as last amended by Laws of Utah 2011, Chapter 366

23 **58-31b-502**, as last amended by Laws of Utah 2014, Chapter 72

24 **58-31d-103**, as last amended by Laws of Utah 2015, Chapter 258

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **58-31b-102** is amended to read:



28 **58-31b-102. Definitions.**

29 In addition to the definitions in Section 58-1-102, as used in this chapter:

30 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
31 for acts or omissions determined to constitute unprofessional or unlawful conduct in
32 accordance with a fine schedule established by rule and as a result of an adjudicative
33 proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

34 (2) "Applicant" means a person who applies for licensure or certification under this
35 chapter by submitting a completed application for licensure or certification and the required
36 fees to the department.

37 (3) "Approved education program" means a nursing education program that meets the
38 minimum standards for educational programs established under this chapter and by division
39 rule in collaboration with the board.

40 (4) "Board" means the Board of Nursing created in Section 58-31b-201.

41 ~~[(5) "Consultation and referral plan" means a written plan jointly developed by an
42 advanced practice registered nurse and a consulting physician that permits the advanced
43 practice registered nurse to prescribe schedule II-III controlled substances in consultation with
44 the consulting physician.]~~

45 ~~[(6) "Consulting physician" means a physician and surgeon or osteopathic physician
46 and surgeon licensed in accordance with this title who has agreed to consult with an advanced
47 practice registered nurse with a controlled substance license, a DEA registration number, and
48 who will be prescribing schedule II-III controlled substances.]~~

49 ~~[(7)]~~ (5) "Diagnosis" means the identification of and discrimination between physical
50 and psychosocial signs and symptoms essential to the effective execution and management of
51 health care.

52 ~~[(8)]~~ (6) "Examinee" means a person who applies to take or does take any examination
53 required under this chapter for licensure.

54 ~~[(9)]~~ (7) "Licensee" means a person who is licensed or certified under this chapter.

55 ~~[(10)]~~ (8) "Long-term care facility" means any of the following facilities licensed by
56 the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
57 Inspection Act:

58 (a) a nursing care facility;

- 59 (b) a small health care facility;
- 60 (c) an intermediate care facility for people with an intellectual disability;
- 61 (d) an assisted living facility Type I or II; or
- 62 (e) a designated swing bed unit in a general hospital.
- 63 ~~[(11)]~~ (9) "Medication aide certified" means a certified nurse aide who:
 - 64 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
 - 65 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
 - 66 that is approved by the division in collaboration with the board, in administering routine
 - 67 medications to patients or residents of long-term care facilities; and
 - 68 (c) is certified by the division as a medication aide certified.
- 69 ~~[(12)]~~ (10) (a) "Practice as a medication aide certified" means the limited practice of
- 70 nursing under the supervision, as defined by the division by administrative rule, of a licensed
- 71 nurse, involving routine patient care that requires minimal or limited specialized or general
- 72 knowledge, judgment, and skill, to an individual who:
 - 73 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
 - 74 disability; and
 - 75 (ii) is in a regulated long-term care facility.
- 76 (b) "Practice as a medication aide certified":
 - 77 (i) includes:
 - 78 (A) providing direct personal assistance or care; and
 - 79 (B) administering routine medications to patients in accordance with a formulary and
 - 80 protocols to be defined by the division by rule; and
 - 81 (ii) does not include assisting a resident of an assisted living facility, a long term care
 - 82 facility, or an intermediate care facility for people with an intellectual disability to self
 - 83 administer a medication, as regulated by the Department of Health by administrative rule.
- 84 ~~[(13)]~~ (11) "Practice of advanced practice registered nursing" means the practice of
- 85 nursing within the generally recognized scope and standards of advanced practice registered
- 86 nursing as defined by rule and consistent with professionally recognized preparation and
- 87 education standards of an advanced practice registered nurse by a person licensed under this
- 88 chapter as an advanced practice registered nurse. Advanced practice registered nursing
- 89 includes:

- 90 (a) maintenance and promotion of health and prevention of disease;
- 91 (b) diagnosis, treatment, correction, consultation, and referral for common health
- 92 problems;
- 93 (c) prescription or administration of prescription drugs or devices including:
 - 94 (i) local anesthesia; and
 - 95 (ii) schedule ~~[IV-V]~~ II-V controlled substances; [~~and~~] or
 - 96 [~~(iii) schedule II-III controlled substances in accordance with a consultation and~~
 - 97 ~~referral plan; or]~~
- 98 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
- 99 related services upon the request of a licensed health care professional by an advanced practice
- 100 registered nurse specializing as a certified registered nurse anesthetist, including:
 - 101 (i) preanesthesia preparation and evaluation including:
 - 102 (A) performing a preanesthetic assessment of the patient;
 - 103 (B) ordering and evaluating appropriate lab and other studies to determine the health of
 - 104 the patient; and
 - 105 (C) selecting, ordering, or administering appropriate medications;
 - 106 (ii) anesthesia induction, maintenance, and emergence, including:
 - 107 (A) selecting and initiating the planned anesthetic technique;
 - 108 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
 - 109 (C) administering general, regional, and local anesthesia;
 - 110 (iii) postanesthesia follow-up care, including:
 - 111 (A) evaluating the patient's response to anesthesia and implementing corrective
 - 112 actions; and
 - 113 (B) selecting, ordering, or administering the medications and studies listed in
 - 114 Subsection ~~[(13)]~~ (11)(d); and
 - 115 (iv) other related services within the scope of practice of a certified registered nurse
 - 116 anesthetist, including:
 - 117 (A) emergency airway management;
 - 118 (B) advanced cardiac life support; and
 - 119 (C) the establishment of peripheral, central, and arterial invasive lines; and
 - 120 (v) for purposes of Subsection ~~[(13)]~~ (11)(d), "upon the request of a licensed health

121 care professional":

122 (A) means a health care professional practicing within the scope of the health care
123 professional's license, requests anesthesia services for a specific patient; and

124 (B) does not require an advanced practice registered nurse specializing as a certified
125 registered nurse anesthetist to [~~enter into a consultation and referral plan or~~] obtain additional
126 authority to select, administer, or provide preoperative, intraoperative, or postoperative
127 anesthesia care and services.

128 [~~(14)~~] (12) "Practice of nursing" means assisting individuals or groups to maintain or
129 attain optimal health, implementing a strategy of care to accomplish defined goals and
130 evaluating responses to care and treatment. The practice of nursing requires substantial
131 specialized or general knowledge, judgment, and skill based upon principles of the biological,
132 physical, behavioral, and social sciences, and includes:

- 133 (a) initiating and maintaining comfort measures;
- 134 (b) promoting and supporting human functions and responses;
- 135 (c) establishing an environment conducive to well-being;
- 136 (d) providing health counseling and teaching;
- 137 (e) collaborating with health care professionals on aspects of the health care regimen;
- 138 (f) performing delegated procedures only within the education, knowledge, judgment,
139 and skill of the licensee; and
- 140 (g) delegating nurse interventions that may be performed by others and are not in
141 conflict with this chapter.

142 [~~(15)~~] (13) "Practice of practical nursing" means the performance of nursing acts in the
143 generally recognized scope of practice of licensed practical nurses as defined by rule and as
144 provided in this Subsection [~~(15)~~] (13) by a person licensed under this chapter as a licensed
145 practical nurse and under the direction of a registered nurse, licensed physician, or other
146 specified health care professional as defined by rule. Practical nursing acts include:

- 147 (a) contributing to the assessment of the health status of individuals and groups;
- 148 (b) participating in the development and modification of the strategy of care;
- 149 (c) implementing appropriate aspects of the strategy of care;
- 150 (d) maintaining safe and effective nursing care rendered to a patient directly or
151 indirectly; and

152 (e) participating in the evaluation of responses to interventions.

153 [~~(16)~~] (14) "Practice of registered nursing" means performing acts of nursing as
154 provided in this Subsection [~~(16)~~] (14) by a person licensed under this chapter as a registered
155 nurse within the generally recognized scope of practice of registered nurses as defined by rule.

156 Registered nursing acts include:

- 157 (a) assessing the health status of individuals and groups;
- 158 (b) identifying health care needs;
- 159 (c) establishing goals to meet identified health care needs;
- 160 (d) planning a strategy of care;
- 161 (e) prescribing nursing interventions to implement the strategy of care;
- 162 (f) implementing the strategy of care;
- 163 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
164 indirectly;
- 165 (h) evaluating responses to interventions;
- 166 (i) teaching the theory and practice of nursing; and
- 167 (j) managing and supervising the practice of nursing.

168 [~~(17)~~] (15) "Routine medications":

169 (a) means established medications administered to a medically stable individual as
170 determined by a licensed health care practitioner or in consultation with a licensed medical
171 practitioner; and

172 (b) is limited to medications that are administered by the following routes:

- 173 (i) oral;
- 174 (ii) sublingual;
- 175 (iii) buccal;
- 176 (iv) eye;
- 177 (v) ear;
- 178 (vi) nasal;
- 179 (vii) rectal;
- 180 (viii) vaginal;
- 181 (ix) skin ointments, topical including patches and transdermal;
- 182 (x) premeasured medication delivered by aerosol/nebulizer; and

183 (xi) medications delivered by metered hand-held inhalers.

184 [(18)] (16) "Unlawful conduct" [~~is as~~] means the same as that term is defined in
185 Sections 58-1-501 and 58-31b-501.

186 [(19)] (17) "Unlicensed assistive personnel" means any unlicensed person, regardless
187 of title, to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance
188 with the standards of the profession.

189 [(20)] (18) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in
190 Sections 58-1-501 and 58-31b-502 and as may be further defined by rule.

191 Section 2. Section 58-31b-502 is amended to read:

192 **58-31b-502. Unprofessional conduct.**

193 "Unprofessional conduct" includes:

194 (1) failure to safeguard a patient's right to privacy as to the patient's person, condition,
195 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
196 because of the licensee's or person with a certification's position or practice as a nurse or
197 practice as a medication aide certified;

198 (2) failure to provide nursing service or service as a medication aide certified in a
199 manner that demonstrates respect for the patient's human dignity and unique personal character
200 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
201 status, age, sex, or the nature of the patient's health problem;

202 (3) engaging in sexual relations with a patient during any:

203 (a) period when a generally recognized professional relationship exists between the
204 person licensed or certified under this chapter and patient; or

205 (b) extended period when a patient has reasonable cause to believe a professional
206 relationship exists between the person licensed or certified under the provisions of this chapter
207 and the patient;

208 (4) (a) as a result of any circumstance under Subsection (3), exploiting or using
209 information about a patient or exploiting the licensee's or the person with a certification's
210 professional relationship between the licensee or holder of a certification under this chapter and
211 the patient; or

212 (b) exploiting the patient by use of the licensee's or person with a certification's
213 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

- 214 (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 215 (6) unauthorized taking or personal use of nursing supplies from an employer;
- 216 (7) unauthorized taking or personal use of a patient's personal property;
- 217 (8) knowingly entering into any medical record any false or misleading information or
- 218 altering a medical record in any way for the purpose of concealing an act, omission, or record
- 219 of events, medical condition, or any other circumstance related to the patient and the medical or
- 220 nursing care provided;
- 221 (9) unlawful or inappropriate delegation of nursing care;
- 222 (10) failure to exercise appropriate supervision of persons providing patient care
- 223 services under supervision of the licensed nurse;
- 224 (11) employing or aiding and abetting the employment of an unqualified or unlicensed
- 225 person to practice as a nurse;
- 226 (12) failure to file or record any medical report as required by law, impeding or
- 227 obstructing the filing or recording of such a report, or inducing another to fail to file or record
- 228 such a report;
- 229 (13) breach of a statutory, common law, regulatory, or ethical requirement of
- 230 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 231 (14) failure to pay a penalty imposed by the division;
- 232 ~~[(15) prescribing a schedule II-III controlled substance without a consulting physician~~
- 233 ~~or outside of a consultation and referral plan;]~~
- 234 ~~[(16)]~~ (15) violating Section 58-31b-801; and
- 235 ~~[(17)]~~ (16) violating the dispensing requirements of Section 58-17b-309 or Chapter
- 236 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic
- 237 Pharmacy, if applicable.

238 Section 3. Section 58-31d-103 is amended to read:

239 **58-31d-103. Rulemaking authority -- Enabling provisions.**

- 240 (1) The division may adopt rules necessary to implement Section 58-31d-102.
- 241 (2) As used in Article VIII (1) of the Advanced Practice Registered Nurse Compact,
- 242 "head of the licensing board" means the executive administrator of the Utah Board of Nursing.
- 243 (3) For purposes of the Advanced Practice Registered Nurse Compact, "APRN" as
- 244 defined in Article II (1) of the compact includes an individual who is:

245 (a) licensed to practice under Subsection 58-31b-301(2) as an advanced practice
246 registered nurse; or

247 (b) licensed to practice under Section 58-44a-301 as a certified nurse midwife.

248 (4) An APRN practicing in this state under a multistate licensure privilege may only be
249 granted prescriptive authority if that individual can document completion of graduate level
250 course work in the following areas:

251 (a) advanced health assessment;

252 (b) pharmacotherapeutics; and

253 (c) diagnosis and treatment.

254 (5) (a) An APRN practicing in this state under a multistate privilege who seeks to
255 obtain prescriptive authority must:

256 (i) meet all the requirements of Subsection (4) and this Subsection (5); and

257 (ii) be placed on a registry with the division.

258 (b) To be placed on a registry under Subsection (5)(a)(ii), an APRN must:

259 (i) submit a form prescribed by the division;

260 (ii) pay a fee; and

261 (iii) if prescribing a controlled substance:

262 (A) obtain a controlled substance license as required under Section 58-37-6; and

263 (B) if prescribing a Schedule II or III controlled substance as a nurse midwife, have a
264 consultation and referral plan with a physician licensed in Utah as required under Subsection
265 58-31b-102(13)(c)(iii) or 58-44a-102(9)(c)(iii)(C).