



## Ohio Board of Nursing

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### MEMORANDUM

To: Members, Ohio Board of Nursing

From: Tom Dilling, Public and Government Affairs Officer/Liaison  
Charity Robl, Interim Executive Director

Subject: Legislation, 134th General Assembly  
(Recently introduced legislation and year-to-date summary)

Date: January 5, 2022

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### Legislative Activity November 2021 through January 5, 2022

#### Recently Introduced

#### **HB 495, Patient Protection Act**

The bill would require specified health care professionals to offer medical chaperones to their patient, to establish certain mandatory reporting requirements for health care professionals, and to name this act the Patient Protection Act. A medical chaperone is defined as a third person who, with a patient's consent, is present during an examination. The bill includes APRNs but not RNs or LPNs as specified health care professionals under the bill. If the patient does not want to have a chaperone present the health care professional may refuse to conduct the examination.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 495 was introduced on November 23, 2021.

#### **HB 496, Regulate Practice of Certified Midwives**

The bill would have the Board of Nursing regulate the practice of certified nurse-midwives, certified midwives, and certified professional midwives and proposes to amend the versions of sections 3701.351, 4723.431, and 4723.481 of the Revised Code that are scheduled to take effect on September 30, 2024, to continue the changes to those sections on and after that date. The bill defines "Certified professional midwife" to mean an individual who is licensed under section 4723.56 of the Revised Code and engages in

one or more of the activities described in division (B) of section 4723.57 of the Revised Code. A certified professional midwife (CPM) does not include a certified nurse-midwife. The bill defines the CPM's scope of practice in new Section 4723.57, ORC. The bill requires hospitals to entertain and act upon applications for clinical privileges in their facilities.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 495 was introduced on November 29, 2021. The bill was referred to the Families, Aging, and Human Services Committee on December 7, 2021.

### **HB 509, Revise Occupational Regulations (Occupational License Review)**

The bill is the result of the Occupational License Review (OLR) legislative process. On November 10, 2021, Director Robl testified in front of the Ohio House State and Local Government Committee as part of the OLR process. The bill indicates the intent of the legislature to enact legislation revising and streamlining occupational regulations to better accommodate the state's workforce in accordance with S.B. 255 of the 132nd General Assembly.

The Committee's report issued in December 2021 proposes to eliminate the dialysis technician intern certificate that is currently issued by the Board of Nursing. Individuals in this profession who are waiting or have not passed the dialysis technician certification examination shall practice under a licensed dialysis technician.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 495 was introduced on December 9, 2021.

### **Actively Monitoring**

### **HB 193, Electronic Prescriptions**

The bill generally limits pharmacist dispensing of schedule II-controlled substances to those prescribed electronically, rather than in writing or electronically as under current law, with exceptions for technical failures, nursing home and hospice care, and cases in which an electronic prescription may cause a delay in care.

*Board position:* The Board is monitoring this legislation.

**Status:** HB 193 was introduced on March 9, 2021. The House passed a substitute version of the bill on June 23, 2021. The bill has been referred to the Senate Health Committee where it has had two hearings, most recently on November 17, 2021.

### **HB 196, Regulate Surgical Assistants**

The bill would require the State Medical Board to regulate the practice of surgical assistants. Other states—including Colorado, Illinois, Kentucky, Nebraska, Tennessee, Texas, and Virginia—have some type of licensure or registration process that applies to surgical assistants. The Ohio Hospital Association opposes the bill.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB196 was introduced on March 4, 2021, and the bill has been referred to the House Health Committee where it has had three hearings, most recently on December 7, 2021.

### **SB 9, Reduce Regulations**

The bill requires each state agency to reduce the number of regulatory restrictions in the agency's rules by 30% by amending or rescinding rules that contain regulatory restrictions according to criteria listed in the bill. The bill directs each agency to achieve a 10% reduction in regulatory restrictions before June 30, 2023; a 20% reduction before June 30, 2024; and the 30% reduction before June 30, 2025. After an agency has achieved a reduction in regulatory restrictions, it cannot adopt additional regulatory restrictions that would cancel out the reduction. The agency also is encouraged to continue to reduce regulatory restrictions after the 30% reduction has been achieved.

*Board position:* The Board is an interested party to this legislation.

**Status:** SB 9 was introduced on January 21, 2021. The bill passed the Senate and is being heard in the House Oversight Committee. The bill has had five hearings, most recently on December 9, 2021.

### **SB 261, Law Changes—Medical Marijuana**

The bill would grant physicians the authority to recommend marijuana for any medical condition. The bill would also remove the Ohio Board of Pharmacy to a large extent from oversight of the Ohio Medical Marijuana Control Program (MMCP), granting the Ohio Department of Commerce (ODC) regulatory control over dispensaries.

*Board position:* The Board is monitoring this legislation.

**Status:** SB 261 was introduced on November 9, 2021. The bill was passed by the Senate on December 15, 2021.

### Recently Enacted

#### **HB 122, Telehealth; To establish and modify requirements regarding the provision of telehealth services**

The bill generally provides for the use of telehealth services by health care professionals:

- Permits specified health care professionals to provide telehealth services.
- Requires telehealth services provided by health care professionals to be done according to specified conditions and standards.
- Permits certain health care licensing boards to adopt rules as necessary to carry out the bill's provisions regarding telehealth services provided by health care professionals.
- Provides that a health care professional is not liable in damages under a claim that the telehealth services provided do not meet the standard of care that would apply if services were provided in-person.
- Permits a health care professional to negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs of providing telehealth services.
- APRNs are specifically named in the bill as an eligible provider of telehealth services.

**Status:** HB 122 was introduced on February 16, 2021. The bill was signed by the Governor on December 22, 2021. The bill becomes effective on March 23, 2022.

#### **SB 58, Electronic Monitoring-Nursing Home Rooms**

The bill would permit a resident of a long-term care facility to conduct electronic monitoring of the resident's room. The Ohio Department of Health may adopt rules as necessary to implement the requirements of the bill.

*Board position:* The Board is monitoring this legislation.

**Status:** SB 58 was introduced on February 9, 2021. The bill was signed by the Governor on December 22, 2021. The bill becomes effective on March 23, 2022.

## Legislative Activity Calendar Year 2021 Year in Review

### Enacted

#### **HB 6, To modify laws governing certain professions due to COVID-19**

In response to the COVID-19 emergency, the bill amended Section 30 of H.B. 197 of the 133rd General Assembly to modify the laws governing the HB 197 temporary nursing licenses and extend an exception to the NCLEX passing requirement for qualified applicants through July 1, 2021. The law required the Board to issue HB 6 temporary licenses to all applicants who meet the following requirements:

- Completion of a nursing education program no more than two years before the date of submitting the Licensure by Examination application.
- No prior NCLEX failure in any state or NCSBN jurisdiction.
- A criminal records check (the individual cannot be licensed if convicted of, pleaded guilty to, or has a judicial finding of guilt for any felony).
- The individual has taken a drug test and failed that test, as determined by the Board.

**Status:** HB6 was introduced on February 4, 2021, and was signed into law on May 14, 2021, as emergency legislation. The uncodified provision of law mandating the HB 6 temporary licenses is no longer in effect.

#### **HB 110, Operating Budget**

*Creates appropriations for FY 2022-2023*

The bill makes operating appropriations for the biennium beginning July 1, 2021, and ending June 30, 2023, and provides authorization and conditions for the operation of state programs, including the authorization of the Board's spending over the next fiscal biennium.

*Other items of interest in the budget bill include:*

Under the bill, whenever a situation arises in which a requested course of treatment includes a particular health care service that conflicts with a medical practitioner's moral, ethical, or religious beliefs or convictions, the practitioner must be excused from participating in the specific healthcare service.

The bill specifies that its provisions are not to be construed to override the requirement under the federal Emergency Medical Treatment and Labor Act (EMTALA) to provide emergency medical treatment to all patients.

The bill earmarks funding to be used to expand existing or support new confidential treatment and monitoring programs offered by occupational licensing boards to licensed healthcare workers with mental health or substance use disorders. It also authorizes an occupational licensing board to contract with a monitoring organization to administer a confidential treatment and monitoring program.

- The bill modifies requirements for maintaining confidentiality of records or information regarding drug treatment programs and services that are licensed or certified by OhioMHAS. In their place, the bill establishes confidentiality requirements based on federal law and applies those requirements to records or information regarding federally assisted programs for substance use disorder treatment.
- Beginning three years after its effective date, the bill requires each hospital operating within Ohio to hold a license from the ODH Director, rather than be registered as under current law. The bill modifies a program established under continuing law to require the Chancellor of Higher Education to approve any nursing bachelor's degree program proposed by community colleges, state community colleges, and technical colleges if those programs meet certain requirements under continuing law and the standards and procedures for academic program approval under continuing law. It eliminates a requirement that the Chancellor, before approving an "applied" bachelor's degree program, must consult with the Governor's Office of Workforce Transformation, the Inter-University Council of Ohio, the Ohio Association of Community Colleges, and the Association of Independent Colleges and Universities of Ohio.

**Status:** The bill became effective on July 1, 2021.

### **HB 176, Revised Athletic Training Laws**

The bill revises the law governing the practice of athletic training and amends the version of section 4755.62 of the Revised Code that was scheduled to take effect on October 9, 2021, to continue the changes to that section on and after that date. With respect to the activities and services that an athletic trainer is permitted to perform under current law, the bill maintains these for each athletic trainer who opts not to practice under a collaboration agreement. But, for an athletic trainer who enters into a collaboration agreement with a physician or podiatrist, the bill authorizes such a trainer to engage in additional activities and services. The bill would authorize the athletic trainer to practice under the referral of a certified nurse practitioner.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 176 was introduced on March 4, 2021. The bill was signed by the Governor on October 29, 2021. The bill becomes effective on January 22, 2022.

### **SB 3, Nurse Licensure Compact**

SB 3, Nurse Licensure Compact (NLC), permits nursing professionals to obtain from their home state a multi-state license which authorizes the nurse to practice in other states who are members of the compact.

**Status:** The legislature passed SB 3 and the bill was signed by the Governor on July 1, 2021. The bill became law on September 30, 2021, with certain provisions effective January 1, 2023.

### **Actively Monitoring**

### **HB 138, Emergency Medical Services**

The bill modifies the scope of emergency medical services that may be provided by EMS personnel. Existing law enumerates the services that each type of EMS personnel may provide. The bill requires the State Board of Emergency Medical, Fire, and Transportation Services to establish the scope of emergency medical services for each type of EMS personnel through the rulemaking process. The bill also permits EMS personnel to comply with a do-not-resuscitate (DNR) order issued by a physician assistant or advanced practice registered nurse rather than to comply with a DNR order only when issued by a physician. The bill further requires the medical director or cooperating physician advisory board of each EMS organization to establish protocols to be followed by EMS personnel when providing all services.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 138 was introduced on February 18, 2021. The House passed the bill on June 23, 2021. The bill has been referred to Senate Health where it has had two hearings, most recently on October 20, 2021.

### **HB 142, Regards Doula Services**

The bill would create a doula advisory board within the Nursing Board in a four-year pilot program, as well as a path for doulas to become professionally certified. Four-year pilot programs in Medicaid to support payments for doula services and a four-year pilot program in the Department of Rehabilitation and Corrections are proposed by the bill to support doula nursery services in prisons. Doulas are individuals who provide emotional support to expectant mothers and families. They are non-clinical and do not deliver infants, but they can provide education about parenting and children to families.

*Board position:* The Board is an interested party to current legislation.

**Status:** HB 142 was introduced on February 23, 2021. The bill was re-referred to the House Families, Aging, and Human Services Committee on or about May 5, 2021. The bill has had three hearings, most recently on October 28, 2021.

### **HB 203 and SB 131, Licensure Reciprocity**

The bills would require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances. The three circumstances under which a licensing authority must issue a license or government certification include “Issuance to out-of-state license or government certification holders,” “Issuance to private certification holders,” and “Issuance to individuals with satisfactory work experience.”

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 203 was introduced on March 4, 2021, and the bill has had four hearings in the House State and Local Government Committee, the most recent being on October 27, 2021. SB131 was introduced on March 16, 2021, and the bill was referred to Senate Workforce and Higher Education Committee on March 17, 2021, where the bill has had two hearings, most recently on May 26, 2021.

### **HB 221, APRN Better Access, Better Care Act**

The bill modifies the laws governing the practice of advanced practice registered nurses and to designate these provisions as the Better Access, Better Care Act. The bill would eliminate the standard care arrangement with a transition period under certain requirements for new APRN licenses. CRNA practice is not a direct part of this bill.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 221 was introduced on March 23, 2021, and the bill has been referred to the House Health Committee.

### **HB 286 and SB 189, Agency Order Appeal—Local Court of Common Pleas**

The bills eliminate the current provision that an appeal from an order issued by any of the following agencies be made to the Franklin County Court of Common Pleas (Franklin County CCP): (1) Liquor Control Commission, (2) Ohio Casino Control Commission, (3) State Medical Board, (4) State Chiropractic Board, (5) Board of Nursing, and (6) Bureau of Workers’ Compensation regarding participation in the health partnership program administered by the Bureau.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 286 was introduced on May 4, 2021. The bill was reported out of House Civil Justice Committee on June 22, 2021, after 5 committee hearings. SB 189 was introduced on May 26, 2021, and the bill has been heard four times in Senate Judiciary Committee, most recently on October 26, 2021.

### **HB 356, Reduce the Use of Prescription Opioids**

The bill is a comprehensive proposal to reduce the abuse of prescription opioids; to establish addiction treatment facilities; to increase penalties for drug trafficking violations; to modify penalties for drug possession; to require an offender convicted of a drug possession or drug trafficking offense involving certain drugs to be subject to ten years of post-release control; to allow a criminal defendant who has a severe substance use disorder involving certain drugs to be confined by a state detoxification provider while awaiting trial; and to create restitution work programs.

*Board position:* The Board is monitoring this legislation.

**Status:** HB 356 was introduced on June 21, 2021. The bill has been referred to House Criminal Justice Committee. The bill had sponsor testimony on November 10, 2021.

### **HB 402, Ohio Midwife Practice Act**

The bill proposes to regulate the practice of certified professional midwives by creating a Council of Certified Professional Midwives. The bill would establish licensing provisions for certified professional midwives and create a stand-alone council to regulate their practice. The scope of practice in statute would authorize the prescription and use of certain drugs by professional midwives.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 402 was introduced on August 24, 2021. The bill was referred to the House Families, Aging and Human Services Committee on September 21, 2021, where it awaits its first hearing.

### **HB 466, Health Care Staffing Agency Requirements**

The bill proposes to establish requirements for the registration and operation of health care staffing agencies.

*Board position:* The Board is monitoring this legislation.

**Status:** HB 466 was introduced on October 26, 2021. The bill was referred to the House Commerce and Labor Committee on November 2, 2021, where it awaits its first hearing.

**HB 476, Parkinson's Disease Registry**

The bill establishes a Parkinson's disease registry and to change the observance of "Parkinson's Disease Awareness Month" from September to April. The Ohio Department of Health (ODH) would oversee the registry. Certified Nurse Practitioners (CNP) and Clinical Nurse Specialists (CNS) would be required to report each case of diagnosis or treatment of Parkinson's Disease. The Board is authorized to discipline a licensed CNP or CNS who fails to report.

*Board position:* The Board is an interested party to this legislation.

**Status:** HB 476 was introduced on November 1, 2021. The bill was referred to the House Health Committee on November 2, 2021, where it awaits its first hearing.

**SB 48, Cultural Competency-Health Care**

The bill requires certain health care professionals, including nurses, to complete instruction in cultural competency. The Board would be required to adopt rules that establish all of the following: (1) The number of hours of instruction in cultural competency an applicant must complete to be eligible for a board-issued license, certificate, or registration;(2) The number of hours of continuing education in cultural competency required for renewal of a board-issued license, certificate, or registration;(3) The criteria to be considered by the board when determining whether to waive cultural competency requirements for an applicant or health care professional, including evidence that the applicant or professional has attained experience that is substantially equivalent to the required number of hours of instruction or continuing education in cultural competency. When adopting these rules, the board shall consider race and gender-based disparities in health care and shall consult with one or more professionally relevant and nationally recognized organizations that review curricula offered by health care professional schools, colleges, and other educational institutions.

*Board position:* The Board is an interested party to this legislation.

**Status:** SB 48 was introduced on February 3, 2021, and the bill was referred to the Senate Health, Human Services and Medicaid Committee on February 10, 2021. The bill has had one hearing on June 16, 2021.

**SB 129, Prohibit Mandatory Overtime-Nurses**

The bill prohibits a hospital from requiring a nurse to work overtime as a condition of continued employment. Sponsor testimony stated that the nursing shortage is a common concern regarding the bill, adding that they feel that the bill might "incentivize nurses to stay at the bedside because it will ensure staffing schedules are normalized in a way that is sustainable for their wellbeing and delivery of good patient care."

*Board position:* The Board is monitoring this legislation.

**Status:** The bill was introduced on March 16, 2021. The bill was referred to Senate Health Committee on March 17, 2021. The bill had sponsor testimony on November 10, 2021.

### **SB 151, Infant Medical Treatment**

The bill establishes standards and conditions regarding the medical care and treatment provided to certain pregnant women and infants by hospitals and physicians. The standards and conditions of care that a hospital or physician must adhere to when providing care and treatment to one of the above-described individuals depends on the location in which the care and treatment take place.

*Board position:* The Board is monitoring this legislation.

**Status:** SB 151 was introduced on March 31, 2021. The bill was assigned to Senate Health on April 21, 2021 and has had two hearings, most recently on September 15, 2021.

### **SB 161, Surgical Smoke**

The bill requires hospitals to have a policy designed to prevent employee exposure to surgical smoke, an aerosol produced by the thermal destruction of tissue using lasers or electro-surgical devices.

*Board position:* The Board is monitoring this legislation.

**Status:** SB 161 was introduced on April 15, 2021. The bill was assigned to Senate Health on April 21, 2021, and has had two hearings, most recently on November 10, 2021.

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Additional information and details related to the content and status of any state bill mentioned in the legislative report may be found at <https://www.legislature.ohio.gov/legislation/search>.