

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENGROSSED

House Bill 4334

(BY DELEGATES SUMMERS, CAMPBELL, MILLER,
SOBONYA, FAIRCLOTH, BATES, WESTFALL,
HOUSEHOLDER, COOPER AND FLEISCHAUER)

[Introduced January 29, 2016;
referred to the Committee on Health and Human
Resources then Government Organization.]

1 A BILL to repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-
2 7a, §30-15-7b, §30-15-7c and §30-15-8, of the Code of West Virginia, 1931, as amended;
3 to amend and reenact §30-7-1, §30-7-2, §30-7-6, §30-7-7, §30-7-15a, §30-7-15b and §30-
4 7-15c of said code; and to amend said code by adding thereto a new section, designated
5 §30-7-15d, all relating to the licensure and authority of advanced practice registered
6 nurses; repealing separate and redundant provisions relating to nurse-midwives; updating
7 and adding definitions of terms; requiring a license to practice as an advanced practice
8 registered nurse; establishing license requirements for an advanced practice registered
9 nurse; updating the prerequisites and application requirements to apply for authority to
10 prescribe drugs; modifying the types and amounts of controlled substances that may be
11 prescribed by authorized advanced practice registered nurses; permitting the signature of
12 an advanced practice registered nurse to have the same force and effect as that of a
13 physician insofar as patient care documentation is concerned; removing the requirement
14 for collaborative relationships with physicians as an ongoing requirement for practice for
15 certified nurse-midwives; removing the requirement for collaborative relationships with
16 physicians as an on-going requirement for prescriptive authority for advanced practice
17 registered nurses; removing certain notifications; and permitting certain fees to be set by
18 rule.

Be it enacted by the Legislature of West Virginia:

1 That §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a,
2 §30-15-7b, §30-15-7c and §30-15-8, of the Code of West Virginia, 1931, as amended, be
3 repealed; that §30-7-1, §30-7-2, §30-7-6, §30-7-7, §30-7-15a, §30-7-15b and §30-7-15c of said
4 code be amended and reenacted; and that said code be amended by adding thereto a new
5 section, designated §30-7-15d, all to read as follows:

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-1. Definitions.

1 As used in this article ~~the term~~:

2 (a) ~~The practice of~~ “Advanced practice registered nurse” is means a registered nurse who
3 has acquired advanced clinical knowledge and skills preparing him or her to provide direct and
4 indirect care to patients as a certified nurse practitioner, certified nurse-midwife, certified
5 registered nurse anesthetist, or certified nurse specialist, who has completed a board-approved
6 graduate-level education program and who has passed a board-approved national certification
7 examination; ~~An advanced practice registered nurse shall meet all the requirements set forth by~~
8 ~~the board by rule for an advance practice registered nurse which shall include, at a minimum, a~~
9 ~~valid license to practice as a certified registered nurse anesthetist, a certified nurse midwife, a~~
10 ~~clinical nurse specialist or a certified nurse practitioner.~~

11 (b) “Board” means the West Virginia Board of Examiners for Registered Professional
12 Nurses;

13 (c) The practice of “registered professional nursing” means the performance for
14 compensation of any service requiring substantial specialized judgment and skill based on
15 knowledge and application of principles of nursing derived from the biological, physical and social
16 sciences, such as responsible supervision of a patient requiring skill in observation of symptoms
17 and reactions and the accurate recording of the facts, or the supervision and teaching of other
18 persons with respect to such principles of nursing, or in the administration of medications and
19 treatments as prescribed by a licensed physician, ~~or~~ a licensed dentist or advanced practice
20 registered nurse, or the application of such nursing procedures as involve understanding of cause
21 and effect in order to safeguard life and health of a patient and others; and

22 (d) “Temporary permit” means a permit authorizing the holder to practice registered
23 professional nursing in this state until such permit is no longer effective or the holder is granted a
24 license by the West Virginia State Board of Examiners for Registered Professional Nurses.

§30-7-2. License required to practice.

1 (a) ~~In order to safeguard life and health, any person practicing or offering to practice~~
2 ~~registered professional nursing in this state for compensation shall hereafter be required to submit~~

3 ~~evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided.~~
4 After June 30, 1965, It shall be is unlawful for any person not licensed under the provisions of this
5 article to practice or to offer to practice registered professional nursing in this state, or to use any
6 title, sign, card or device to indicate that such person is a registered professional nurse: *Provided,*
7 That any professional nurse holding an active, unencumbered license to practice in another state,
8 who accompanies a patient to whom he or she administers nursing care while such patient is in
9 transit or being transported into, out of, or through this state, may practice without a license issued
10 under this article with the following limitations: (a) Such nurse may only administer nursing care
11 to the patient whom they are accompanying in this state; and (b) under no circumstances is any
12 such nurse authorized to practice nursing in this state for longer than forty-eight hours within any
13 three-month period; and (c) under no circumstances shall any such nurse hold him or herself out
14 as a registered professional nurse licensed in this state. Such forty-eight hour period shall
15 commence and run from the time such nurse first enters the borders of this state in the company
16 of his or her patient and therefrom run continuously, whether or not such nurse dispenses nursing
17 care, until such forty-eight hour period has elapsed.

18 (b) To practice as an advanced practice registered nurse in this state, a person must have
19 a currently valid advanced practice registered nurse license issued by the board. It is unlawful for
20 any person to practice or offer to practice as an advanced practice registered nurse, to use any
21 title, sign, card or device to indicate or give the impression that such person is an advanced
22 practice registered nurse or to practice as, perform the role of, or use any title, sign, card or device
23 to indicate that the person is a certified registered nurse anesthetist, certified nurse-midwife,
24 clinical nurse specialist or certified nurse practitioner, unless that person is currently licensed by
25 the board as an advanced practice registered nurse.

§30-7-6. Qualifications; licensure; fees; temporary permits.

1 (a) To obtain a license to practice registered professional nursing, an applicant for such
2 license shall submit to the board written evidence, verified by oath, that he or she: ~~(a)~~ (1) Is of

3 good moral character; ~~(b)~~ (2) has completed an approved four-year high school course of study
4 or the equivalent thereof, as determined by the appropriate educational agency; and ~~(c)~~ (3) has
5 completed an accredited program of registered professional nursing education and holds a
6 diploma of a school accredited by the board.

7 The applicant shall also be required to pass a written examination in such subjects as the
8 board may determine. Each written examination may be supplemented by an oral examination.
9 Upon successfully passing such examination or examinations, the board shall issue to the
10 applicant a license to practice registered professional nursing. The board shall determine the
11 times and places for examinations. In the event an applicant shall have failed to pass
12 examinations on two occasions, the applicant shall, in addition to the other requirements of this
13 section, present to the board such other evidence of his or her qualifications as the board may
14 prescribe.

15 The board may, upon application, issue a license to practice registered professional
16 nursing by endorsement to an applicant who has been duly licensed as a registered professional
17 nurse under the laws of another state, territory or foreign country if in the opinion of the board the
18 applicant meets the qualifications required of registered professional nurses at the time of
19 graduation.

20 The board may, upon application and proper identification determined by the board, issue
21 a temporary permit to practice registered professional nursing by endorsement to an applicant
22 who has been duly licensed as a registered professional nurse under the laws of another state,
23 territory or foreign country. Such temporary permit authorizes the holder to practice registered
24 professional nursing in this state while the temporary permit is effective. A temporary permit shall
25 be effective for ninety days, unless the board revokes such permit prior to its expiration, and such
26 permit may not be renewed. Any person applying for a temporary license under the provisions of
27 this paragraph shall, with his or her application, pay to the board a nonrefundable fee of \$10.

28 Any person holding a valid license designated as a "waiver license" may submit an
29 application to the board for a license containing no reference to the fact that such person has
30 theretofore been issued such "waiver license." The provisions of this section relating to
31 examination and fees and the provisions of all other sections of this article shall apply to any
32 application submitted to the board pursuant to the provisions of this paragraph.

33 Any person applying for a license to practice registered professional nursing under the
34 provisions of this article shall, with his or her application, pay to the board a fee of \$40: *Provided,*
35 That the fee to be paid for the year commencing July 1, 1982, shall be \$70: *Provided, however,*
36 That the board in its discretion may, by rule or regulation, decrease either or both said license
37 fees. In the event it shall be necessary for the board to reexamine any applicant for a license, an
38 additional fee shall be paid to the board by the applicant for reexamination: *Provided further,* That
39 the total of such additional fees shall in no case exceed \$100 for any one examination.

40 Any person holding a license heretofore issued by the West Virginia state Board of
41 Examiners for Registered Nurses and which license is valid on the date this article becomes
42 effective shall be deemed to be duly licensed under the provisions of this article for the remainder
43 of the period of any such license heretofore issued. Any such license heretofore issued shall also,
44 for all purposes, be deemed to be a license issued under this article and to be subject to the
45 provisions hereof.

46 The board shall, upon receipt of a duly executed application for licensure and of the
47 accompanying fee of \$70, issue a temporary permit to practice registered professional nursing to
48 any applicant who has received a diploma from a school of nursing approved by the board
49 pursuant to this article after the date the board last scheduled a written examination for persons
50 eligible for licensure: *Provided,* That no such temporary permit shall be renewable nor shall any
51 such permit be valid for any purpose subsequent to the date the board has announced the results
52 of the first written examination given by the board following the issuance of such permit.

53 (b) To obtain a license to practice as an advanced practice registered nurse, an applicant
54 must submit a written application, verified by oath, to the board together with an application fee
55 established by the board through an authorized legislative rule. The requirements for a license to
56 practice as an advanced practice registered nurse in this state are listed below and must be
57 demonstrated to the board through satisfactory evidence submitted with the application for a
58 license:

59 (1) The applicant must be licensed in good standing with the board as a registered
60 professional nurse;

61 (2) The applicant must have satisfactorily completed a graduate-level program in nursing
62 accredited by a national accreditation body that is acceptable to the board; and

63 (3) The applicant must be currently certified by a national certification organization,
64 approved by the board, in one or more of the following nationally recognized advance practice
65 registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical
66 nurse specialist or certified nurse practitioner.

§30-7-7. Qualifications and licensure of persons not citizens of United States.

1 The board may, upon application, issue a license to practice registered professional
2 nursing by endorsement to any person who is not a citizen of the United States of America if such
3 person: (a) Has been duly licensed as a registered professional nurse under the laws of another
4 state, territory or foreign country, and (b) shall, in any such state, territory or foreign country, have
5 passed a written examination in the English language which, in the opinion of the board, is
6 comparable in content and scope to the type of written examination ~~which is authorized in the~~
7 ~~second paragraph~~ that is required in subsection (a) of section six of this article.

8 All other provisions of this article shall be applicable to any application for or license issued
9 pursuant to this section.

§30-7-15a. Prescriptive authority for prescription drugs; coordination with Board of Pharmacy.

1 (a) The board may, in its discretion, authorize an advanced practice registered nurse to
2 prescribe prescription drugs ~~in a collaborative relationship with a physician licensed to practice in~~
3 ~~West Virginia and~~ in accordance with applicable state and federal laws. ~~An authorized advanced~~
4 ~~practice registered nurse may write or sign prescriptions or transmit prescriptions verbally or by~~
5 ~~other means of communication.~~

6 ~~(b) For purposes of this section an agreement to a collaborative relationship for~~
7 ~~prescriptive practice between a physician and an advanced practice registered nurse shall be set~~
8 ~~forth in writing. Verification of the agreement shall be filed with the board by the advanced practice~~
9 ~~registered nurse. The board shall forward a copy of the verification to the board of Medicine and~~
10 ~~the board of Osteopathic Medicine. Collaborative agreements shall include, but are not limited to,~~
11 ~~the following:~~

12 ~~(1) Mutually agreed upon written guidelines or protocols for prescriptive authority as it~~
13 ~~applies to the advanced practice registered nurse's clinical practice;~~

14 ~~(2) Statements describing the individual and shared responsibilities of the advanced~~
15 ~~practice registered nurse and the physician pursuant to the collaborative agreement between~~
16 ~~them;~~

17 ~~(3) Periodic and joint evaluation of prescriptive practice; and~~

18 ~~(4) Periodic and joint review and updating of the written guidelines or protocols.~~

19 ~~(e) (b) The board shall promulgate propose legislative rules for legislative approval in~~
20 ~~accordance with the provisions of chapter twenty-nine-a of this code governing the eligibility and~~
21 ~~extent to which an advanced practice registered nurse may prescribe drugs. Such rules shall~~
22 ~~provide, at a minimum, a state formulary classifying those categories of drugs which shall not be~~
23 ~~prescribed by advanced practice registered nurse including, but not limited to, Schedules I and II~~
24 ~~of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general~~
25 ~~anesthetics. Drugs listed under Schedule III shall be limited to a seventy-two hour supply without~~
26 ~~refill. In addition to the above referenced provisions and restrictions and pursuant to a~~

27 ~~collaborative agreement as set forth in subsections (a) and (b) of this section, the~~ The rules shall
28 permit the prescribing of an annual supply of any drug, with the exception of controlled
29 substances, which is prescribed for the treatment of a chronic condition, other than chronic pain
30 management. For the purposes of this section, a “chronic condition” is a condition which lasts
31 three months or more, generally cannot be prevented by vaccines, can be controlled but not cured
32 by medication and does not generally disappear. These conditions, with the exception of chronic
33 pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes,
34 epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the
35 prescription the chronic disease being treated subject to the following exceptions and limitations:

36 (1) Except as provided in subdivision (3) of this subsection, an advanced practice
37 registered nurse may not prescribe more than a seventy-two hour supply of any drug listed, or a
38 drug containing any substance listed, in Schedule II of the Uniform Controlled Substance Act, to
39 any individual and the prescription may not be refillable;

40 (2) An advanced practice registered nurse may prescribe up to a thirty-day supply of any
41 drug listed, or drug containing any substance listed, in Schedule III of the Uniform Controlled
42 Substance Act to any individual and the prescription may not be refillable; and

43 (3) An advanced practice registered nurse may prescribe to any individual, for the
44 treatment of Attention Deficit Disorder, up to a thirty-day supply of any controlled substance
45 approved by the U.S. Food and Drug Administration for the treatment of this disorder and the
46 prescription may not be refillable.

47 ~~(d) The board shall consult with other appropriate boards for the development of the~~
48 ~~formulary.~~

49 ~~(e)~~ (c) ~~The board shall transmit to the Board of Pharmacy a list of all advanced practice~~
50 ~~registered nurse~~ nurses with prescriptive authority. The list shall include:

51 (1) The name of ~~the~~ each authorized advanced practice registered nurse;

52 (2) The prescriber's identification number assigned by the board; and

53 (3) The effective date of prescriptive authority.

§30-7-15b. Eligibility for prescriptive authority; application; fee.

1 ~~(a)~~ An advanced practice registered nurse ~~who applies for authorization to prescribe drugs~~
2 ~~shall~~ is eligible to apply for full authorization to prescribe drugs after satisfying the following
3 requirements:

4 ~~(a)~~ (1) Be ~~is~~ licensed and ~~certified~~ in good standing in West Virginia as an advanced
5 practice registered nurse;

6 ~~(b)~~ (2) Not be less than is at least eighteen years of age;

7 ~~(c)~~ (3) Provide the board with evidence of successful completion of Has completed forty-
8 five contact hours of education in pharmacology and clinical management of drug therapy under
9 a program approved by the board, fifteen hours of which ~~shall be~~ have been completed within the
10 two-year period immediately ~~before the date of application~~ prior to entering into a prerequisite
11 collaborative relationship;

12 (4) Has completed at least two years of practice in a collaborative relationship with a
13 qualified collaborating health care professional: *Provided*, That this requirement does not apply
14 to those nurses who have been granted prescriptive authority more than two years prior to the
15 amendment of this section; and

16 (5) Does not have his or her advanced practice registered nursing license, certification or
17 registration in any jurisdiction suspended, limited or revoked.

18 ~~(d)~~ ~~Provide the board with evidence that he or she is a person of good moral character~~
19 ~~and not addicted to alcohol or the use of controlled substances; and~~

20 ~~(e)~~ ~~Submit a completed, notarized application to the board, accompanied by a fee as~~
21 ~~established by the board by rule.~~

22 (b) As used in this section:

23 “Applicant” means an advanced practice registered nurse who has submitted an
24 application for prescriptive authority or who is in the process of completing the prerequisites to
25 apply for prescriptive authority;

26 “Collaborative relationship” means a working relationship, structured through a written
27 agreement, in which an applicant may prescribe drugs in collaboration with a qualified
28 collaborating health care professional; and

29 “Qualified collaborating health care professional” means a physician, licensed or
30 authorized to practice in West Virginia and registered to prescribe drugs, including controlled
31 substances, or an advanced practice registered nurse, who is licensed to practice in West Virginia
32 and who has been authorized and registered to prescribe drugs, including controlled substances,
33 for a period of not less than five years preceding entry into a collaborative relationship with an
34 applicant.

35 (c) An agreement for a collaborative relationship for prescriptive practice between a
36 physician and an advanced practice registered nurse shall be set forth in writing. Verification of
37 the agreement shall be filed with the board by the advanced practice registered nurse together
38 with documentation of completion of the education requirements described in subsection (a) of
39 this section. If the qualified collaborating health care professional is not a licensee of the board,
40 the board shall forward a copy of the verified agreement to the board through which that
41 professional is licensed. If it appears to the satisfaction of the board that the collaborative
42 agreement is sufficient in form, that the applicant has completed the education requirements and
43 that the qualified collaborating health care professional is licensed in good standing in this state,
44 then the board shall grant provisional authority to the applicant to prescribe drugs under the terms
45 of the collaborative agreement and the rules of the board.

46 Collaborative agreements shall include, but are not limited to, the following:

47 (1) Mutually agreed upon written guidelines or protocols for prescriptive authority as it
48 applies to the advanced practice registered nurse’s clinical practice;

49 (2) Statements describing the individual and shared responsibilities of the advanced
50 practice registered nurse and the qualified collaborating health care professional;

51 (3) Periodic and joint evaluation of prescriptive practice; and

- 52 (4) Periodic and joint review and updating of the written guidelines or protocols.
- 53 (d) The board may, in its discretion, authorize an advanced practice registered nurse to
54 prescribe prescription drugs when the individual has met the prerequisites of subsection (a) of
55 this section, pays the application fee established by the board by rule and submits a completed
56 application, on forms developed by the board, containing the following, minimum elements:
- 57 (1) Evidence of successful completion of all education requirements;
- 58 (2) Evidence that the applicant is a person of good moral character and that the applicant
59 is not addicted to alcohol or to the use of controlled substances;
- 60 (3) The applicant's statement under oath to the truth of the contents of the application; and
- 61 (4) Other information required by state and federal law, or by rule of the board.
- 62 (e) After an advanced practice registered nurse has completed at least two years in a
63 duly-documented collaborative relationship and has been granted full prescriptive authority, the
64 advanced practice registered nurse may prescribe drugs without further requirement of
65 participation in a collaborative relationship, unless the board determines by order arising out of
66 the board's complaint process that a collaborative relationship is necessary for the rehabilitation
67 of the licensee or for protection of the public.

**§30-7-15c. Form of prescriptions; termination of authority; renewal; notification of
termination of authority.**

- 1 (a) Prescriptions authorized by an advanced practice registered nurse must comply with
2 all applicable state and federal laws; must be signed by the prescriber with the initials "A.P.R.N."
3 or the designated certification title of the prescriber; and must include the prescriber's
4 identification number assigned by the board or the prescriber's national provider identifier
5 assigned by the National Provider System pursuant to 45 C. F. R. §162.408.
- 6 (b) Prescriptive authorization ~~shall~~ may be terminated if the advanced practice registered
7 nurse has:
- 8 (1) Not maintained current authorization as an advanced practice registered nurse; or

9 (2) Prescribed outside the advanced practice registered nurse's scope of practice or has
10 prescribed drugs for other than therapeutic purposes. ~~or~~

11 ~~(3) Has not filed verification of a collaborative agreement with the board.~~

12 (c) Prescriptive authority for an advanced practice registered nurse must be renewed
13 biennially. Documentation of eight contact hours of pharmacology during the previous two years
14 must be submitted at the time of renewal.

15 (d) The board shall notify the Board of Pharmacy, ~~the board of Medicine and the board of~~
16 ~~Osteopathic Medicine~~ within twenty-four hours after termination of, or change in, an advanced
17 practice registered nurse's prescriptive authority.

**§30-7-15d. Global allowance for signatures on patient care by advanced practice
registered nurses.**

1 Whenever any law or rule requires a signature, certification, stamp, verification, affidavit
2 or endorsement by a physician, the signature, certification, stamp, verification, affidavit or
3 endorsement of an advanced practice registered nurse is permitted to have the same force and
4 effect. This section may not be construed to expand the scope of practice of an advanced practice
5 registered nurse outside his or her area of specialty.

NOTE: The purpose of this bill is to clarify the requirements for a license to practice as an advanced practice registered nurses and to expand the prescriptive authority that may be granted to advanced practice registered nurses (APRNs). The bill repeals separate provisions relating to nurse-midwives because these provisions are part of the APRN license requirements. This bill removes the requirement for collaborative relationships with physicians as a continuing requirement of practice, but retains the collaborative relationship requirement for a two-year period as a prerequisite to qualify for prescriptive authority. The bill permits advanced practice registered nurses to prescribe limited supplies of certain controlled substances. The bill permits the signature of an advanced practice registered nurse to have the same force and effect as that of a physician insofar as patient care documentation is concerned. The bill removes certain notifications. The bill permits certain fees to be set by rule.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.