As Introduced

131st General Assembly
Regular Session 2015-2016

S. B. No. 110

Senator Burke

A BILL

To amend sections 4723.07, 4723.48, and 4731.72 and to enact section 4723.489 of the Revised Code to authorize administration of certain drugs pursuant to delegation by an advanced practice registered nurse who holds a certificate to prescribe and to revise the law governing billing for anatomic pathology services performed on dermatology specimens.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4723.07, 4723.48, and 4731.72 be amended and section 4723.489 of the Revised Code be enacted to read as follows:

Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:

(A) Provisions for the board's government and control of its actions and business affairs;

(B) Minimum standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of
those programs;

(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;

(D) Standards and procedures for renewal of the licenses and certificates issued by the board;

(E) Standards for approval of continuing nursing education programs and courses for registered nurses, licensed practical nurses, certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.

(F) Standards that persons must meet to be authorized by the board to approve continuing education programs and courses and a schedule by which that authorization expires and may be renewed;

(G) Requirements, including continuing education requirements, for reactivating inactive licenses or certificates, and for reinstating licenses or certificates that have lapsed;

(H) Conditions that may be imposed for reinstatement of a license or certificate following action taken under section 3123.47, 4723.28, 4723.281, 4723.652, or 4723.86 of the Revised Code resulting in a license or certificate suspension;

(I) Requirements for board approval of courses in medication administration by licensed practical nurses;
(J) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse, a license to practice nursing as a licensed practical nurse, or a certificate of authority issued under division (B) of section 4723.41 of the Revised Code for the purpose of issuing the license or certificate by the board's endorsement of the applicant's authority to practice issued by the licensing agency of another state;

(K) Universal and standard precautions that shall be used by each licensee or certificate holder. The rules shall define and establish requirements for universal and standard precautions that include the following:

(1) Appropriate use of hand washing;

(2) Disinfection and sterilization of equipment;

(3) Handling and disposal of needles and other sharp instruments;

(4) Wearing and disposal of gloves and other protective garments and devices.

(L) Standards and procedures for approving certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, and for renewal of those certificates;

(M) Quality assurance standards for certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(N) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by
a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

(O) Continuing education standards for clinical nurse specialists who were issued a certificate of authority to practice as a clinical nurse specialist under division (C) of section 4723.41 of the Revised Code as that division existed at any time before the effective date of this amendment March 20, 2013;

(P) For purposes of division (B)(31) of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient;

(Q) Standards and procedures for delegation of the authority to administer drugs under division (C) of section 4723.48 of the Revised Code.

The board may adopt other rules necessary to carry out the provisions of this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.48. (A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner seeking authority to prescribe drugs and therapeutic devices shall file with the board of nursing a written application for a certificate to prescribe. The board of nursing shall issue a certificate to prescribe to each applicant who meets the requirements specified in section 4723.482 or 4723.485 of the Revised Code.

Except as provided in division (B) of this section, the initial certificate to prescribe that the board issues to an applicant shall be issued as an externship certificate. Under an
externship certificate, the nurse may obtain experience in prescribing drugs and therapeutic devices by participating in an externship that evaluates the nurse's competence, knowledge, and skill in pharmacokinetic principles and their clinical application to the specialty being practiced. During the externship, the nurse may prescribe drugs and therapeutic devices only when one or more physicians are providing supervision in accordance with rules adopted under section 4723.50 of the Revised Code.

After completing the externship, the holder of an externship certificate may apply for a new certificate to prescribe. On receipt of the new certificate, the nurse may prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

(B) In the case of an applicant who meets the requirements of division (C) of section 4723.482 of the Revised Code, the initial certificate to prescribe that the board issues to the applicant under this section shall not be an externship certificate. The applicant shall be issued a certificate to prescribe that permits the recipient to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

(C)(1) The holder of a certificate issued under this section may delegate to a person not otherwise authorized to administer drugs the authority to administer a drug, other than a controlled substance, listed in the formulary established under division (B)(1) of section 4723.50 of the Revised Code to a specified patient. The delegation shall be in accordance with division (C)(2) of this section and standards and procedures established in rules adopted under division (Q) of section...
4723.07 of the Revised Code.

(2) Prior to delegating authority, the certificate holder shall do both of the following:

(a) Assess the patient and determine that the drug is appropriate for the patient;

(b) Determine that the person to whom the authority will be delegated has met the conditions specified in division (D) of section 4723.489 of the Revised Code.

Sec. 4723.489. A person not otherwise authorized to administer drugs may administer a drug to a specified patient if all of the following conditions are met:

(A) The authority to administer the drug is delegated to the person by an advanced practice registered nurse who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and holds a certificate to prescribe issued under section 4723.48 of the Revised Code.

(B) The drug is listed in the formulary established under division (B) of section 4723.50 of the Revised Code but is not a controlled substance and is not to be administered intravenously.

(C) The drug is to be administered at a location other than a hospital inpatient care unit, as defined in section 3727.50 of the Revised Code; a hospital emergency department or a freestanding emergency department; or an ambulatory surgical facility, as defined in section 3702.30 of the Revised Code.

(D) The person has successfully completed education based on a recognized body of knowledge concerning drug administration and demonstrates to the person's employer the knowledge, skills,
and ability to administer the drug safely.

(E) The person's employer has given the advanced practice registered nurse access to documentation, in written or electronic form, showing that the person has met the conditions specified in division (D) of this section.

(F) The advanced practice registered nurse is physically present at the location where the drug is administered.

Sec. 4731.72. (A) As used in this section:

(1) "Anatomic pathology services," "assignment of benefits," "histologic processing," "insurer," "physician," and "referring clinical laboratory" have the same meanings as in section 3701.86 of the Revised Code.

(2) "Professional component of an anatomic pathology service" means the entire anatomic pathology service other than histologic processing.

(3) "Technical component of an anatomic pathology service" means only histologic processing.

(B) No physician shall present or cause to be presented a claim, bill, or demand for payment for anatomic pathology services to any person or entity other than the following:

(1) The patient who receives the services or another individual, such as a parent, spouse, or guardian, who is responsible for the patient's bills;

(2) A responsible insurer or other third-party payor of a patient who receives the services;

(3) A hospital, public health clinic, or not-for-profit health clinic ordering the services;
(4) A referring clinical laboratory;

(5) A governmental agency or any person acting on behalf of a governmental agency;

(6) A physician who is permitted to bill for the services under division (D) of this section.

(C) Except as provided in division (D) of this section, no physician shall charge, bill, or otherwise solicit payment, directly or indirectly, for anatomic pathology services unless the services are personally rendered by the physician or rendered under the on-site supervision of the physician.

(D) A physician who performs the professional component of an anatomic pathology service on a patient specimen may bill for the amount incurred in doing either of the following:

(1) Having a clinical laboratory or another physician perform the technical component of the anatomic pathology service;

(2) Obtaining another physician's consultation regarding the patient specimen.

(2) A physician may bill for having a clinical laboratory or another physician perform an anatomic pathology service on a dermatology specimen, but only if the billing physician discloses to the person or entity being billed both of the following:

(a) The name and address of the clinical laboratory or physician who performed the service;

(b) The amount the billing physician was charged by or paid to the clinical laboratory or physician who performed the service.
(E) A violation of division (B) or (C) of this section constitutes a reason for taking action under division (B)(20) of section 4731.22 of the Revised Code.

(F) Nothing in this section shall be construed to mandate the assignment of benefits for anatomic pathology services.

Section 2. That existing sections 4723.07, 4723.48, and 4731.72 of the Revised Code are hereby repealed.