

1 SB229
2 147315-7
3 By Senators Reed, Marsh and Waggoner
4 RFD: Health
5 First Read: 19-FEB-13

1 SB229

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4 ENROLLED, An Act,

5 To add a new Article 11, consisting of Sections
6 20-2-250, 20-2-251, 20-2-252, 20-2-253, 20-2-254, 20-2-255,
7 20-2-256, 20-2-257, 20-2-258, and 20-2-259, to Chapter 2 of
8 Title 20 of the Code of Alabama 1975, to allow for the
9 prescribing of certain schedules of controlled substances by
10 certified registered nurse practitioners (CRNP) and certified
11 nurse midwives (CNM) with collaborative practice agreements;
12 to provide for the establishment of qualifications required
13 for certified registered nurse practitioners and certified
14 nurse midwives to obtain a Qualified Alabama Controlled
15 Substances Registration Certificate (QACSC); to provide for
16 prescriptive, administering, and dispensing authority of CRNPs
17 and CNMs in possession of a QACSC; to provide for the
18 establishment of the Board of Medical Examiners (board) as the
19 certifying board for the registration and approval of a CRNP
20 and CNM to obtain or renew a QACSC; to establish an advisory
21 committee to comment on proposed rules; to authorize the board
22 to adopt rules concerning the application procedures, fees,
23 issuance, restriction, limitation, suspension, or revocation
24 of a QACSC and for the conduct of hearings regarding the same;
25 to provide for grounds for the denial, restriction,

1 limitation, suspension, or revocation of a QACSC; to provide
2 for an appeals process for a CRNP or CNM adversely affected by
3 an order of the board denying an application for or
4 restricting, limiting or suspending or revoking a QACSC; to
5 provide for the board to charge and collect fees, congruent
6 with other mid-level providers in Alabama, to defray expenses
7 incurred in the registration of CRNPs and CNMs, and the
8 issuance, restriction, limitation, suspension or revocation of
9 a QACSC to provide immunity to any member of the board, its
10 agents, employees, consultants, or attorneys regarding
11 investigations or proceedings to restrict, limit, suspend, or
12 revoke a QACSC; to add a new Article 12 to Chapter 2 of Title
13 20, Code of Alabama 1975, consisting of Section 20-2-260, to
14 allow a person who holds a Qualified Alabama Controlled
15 Substances Registration Certificate (QACSC) to be issued a
16 Limited Purpose Schedule II Permit to be used in limited
17 specific circumstances; and to amend Sections 20-2-214 and
18 20-2-217 of the Code of Alabama 1975, relating to the
19 Controlled Substances Prescription Database.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. A new Article 11 consisting of Sections
22 20-2-250, 20-2-251, 20-2-252, 20-2-253, 20-2-254, 20-2-255,
23 20-2-256, 20-2-257, 20-2-258, and 20-2-259, is added to
24 Chapter 2, Title 20 of the Code of Alabama 1975, to read as
25 follows:

ARTICLE 11

Prescribing of Certain Schedules of Controlled Substances by Certified Registered Nurse Practitioners and Certified Nurse Midwives.

§20-2-250.

As used in this article, the following words shall have the following meanings:

(1) ADMINISTER. The direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient by any of the following:

a. A collaborating physician or, in his or her presence, his or her authorized agent.

b. A certified registered nurse practitioner or certified nurse midwife.

c. The patient at the direction and in the presence of the collaborating physician, certified registered nurse practitioner, or certified nurse midwife.

(2) BOARD. The Board of Medical Examiners of the State of Alabama.

(3) CERTIFIED NURSE MIDWIFE or CNM. An advanced practice nurse who is subject to a collaborative practice agreement with a collaborating physician pursuant to Title 34, Chapter 21, Article 5, and who has advanced knowledge and skills relative to the management of women's health care

1 focusing on pregnancy, childbirth, the postpartum period, care
2 of the newborn, family planning, and gynecological needs of
3 women, within a health care system that provides for
4 consultation, collaborative management, or referral as
5 indicated by the health status of the patient.

6 (4) CERTIFIED REGISTERED NURSE PRACTITIONER or CRNP.
7 An advanced practice nurse who is subject to a collaborative
8 practice agreement with a collaborating physician pursuant to
9 Title 34, Chapter 21, Article 5, and who has advanced
10 knowledge and skills in the delivery of nursing services
11 within a health care system that provides for consultation,
12 collaborative management, or referral as indicated by the
13 health status of the patient.

14 (5) COLLABORATING PHYSICIAN. A doctor of medicine or
15 doctor of osteopathy licensed to practice medicine in Alabama
16 who agrees in writing to practice in collaboration with one or
17 more certified registered nurse practitioners or certified
18 nurse midwives in accordance with Title 34, Chapter 21,
19 Article 5, and the rules and regulations adopted by the Board
20 of Medical Examiners and the Board of Nursing.

21 (6) PRESCRIBE or PRESCRIBING. The act of issuing a
22 prescription for a controlled substance.

23 (7) PRESCRIPTION. Any order for a controlled
24 substance written or signed or transmitted by word of mouth,
25 telephone, telegraph, closed circuit television, or other

1 means of communication by a legally competent collaborating
2 physician, certified registered nurse practitioner, or
3 certified nurse midwife authorized by law to prescribe and
4 administer the drug which is intended to be filled,
5 compounded, or dispensed by a pharmacist.

6 (8) QACSC. A Qualified Alabama Controlled Substances
7 Registration Certificate.

8 §20-2-251.

9 (a) The Board of Medical Examiners is hereby
10 designated as the certifying board for the registration and
11 approval of a certified registered nurse practitioner (CRNP)
12 or a certified nurse midwife (CNM) in obtaining or renewing a
13 Qualified Alabama Controlled Substances Registration
14 Certificate (QACSC). The board may adopt regulations
15 concerning the application procedures, fees, and grounds for
16 the restriction, limitation, suspension, or revocation of a
17 QACSC, excluding the charge of expenses for conducting an
18 investigation or expenses of a hearing, and to provide for
19 hearings in connection with the same. The board shall
20 establish a unique QACSC number that identifies the particular
21 applicant as a certified registered nurse practitioner or
22 certified nurse midwife with a valid QACSC. However, nothing
23 in this act shall permit the board to encroach on the powers,
24 duties, and authority of the Board of Nursing in carrying out
25 is legally authorized functions. The Board of Nursing shall

1 remain the sole licensing and disciplinary authority for CRNPs
2 and CNMs.

3 (b) An advisory committee shall be created to
4 comment on proposed rules.

5 (c) The board and its agents, attorneys, or
6 investigators shall be permitted access to the records of any
7 CRNP or CNM, including patient records, which would relate to
8 a request for a QACSC, a renewal of a QACSC, or a possible
9 violation of any provision of the Alabama Uniform Controlled
10 Substances Act, this article, or applicable regulations of the
11 board.

12 (d) (1) The board may establish protocols,
13 formularies, or medical regimens which relate to, govern, or
14 regulate a QACSC, and any such protocol, formulary, or medical
15 regimen shall not be considered a rule under the Alabama
16 Administrative Procedure Act.

17 (2) The formulary of controlled substances that may
18 be prescribed by CRNPs and CNMs shall be approved by the
19 certifying board upon the recommendation of the joint practice
20 committee established by Article 5, commencing with Section
21 34-21-80, Chapter 21, Title 34, but the formulary shall not be
22 considered a rule under the Alabama Administrative Procedure
23 Act.

24 §20-2-252.

1 The Board of Medical Examiners may grant a Qualified
2 Alabama Controlled Substances Registration Certificate (QACSC)
3 to a certified registered nurse practitioner (CRNP) or
4 certified nurse midwife (CNM) who:

5 (1) Is practicing in accordance with this article,
6 Title 34, Chapter 21, Article 5, and all rules and regulations
7 pertaining to collaboration between a qualified physician and
8 a qualified CRNP or a CNM.

9 (2) Submits proof of successful completion of a
10 course or courses approved by the board which includes
11 advanced pharmacology and prescribing trends relating to
12 controlled substances and which is consistent with the same
13 requirements for other mid-level providers.

14 (3) Provides accurate and complete documentation of
15 12 or more months of active, clinical practice with one or
16 more collaborative practices agreement which is governed by
17 Title 34, Chapter 21, Article 5 and which has received final
18 approval from the Board of Medical Examiners and the Alabama
19 Board of Nursing. Temporary approval practice and provisional
20 approval practice shall not be used or considered to meet the
21 requirement of 12 or more months of active, clinical practice.

22 §20-2-253.

23 (a) Upon receipt of a Qualified Alabama Controlled
24 Substances Registration Certificate (QACSC) and a valid
25 registration number issued by the United States Drug

1 Enforcement Administration, a certified registered nurse
2 practitioner (CRNP) or certified nurse midwife (CNM) may
3 prescribe, administer, authorize for administration, or
4 dispense only those controlled substances listed in Schedules
5 III, IV, and V of Article 2, Chapter 2, of this title in
6 accordance with rules adopted by the Board of Medical
7 Examiners and any protocols, formularies, and medical regimens
8 established by the board for regulation of a QACSC.

9 (b) A CRNP or a CNM shall not utilize his or her
10 QACSC for the purchasing, obtaining, maintaining, or ordering
11 of any stock supply or inventory of any controlled substance
12 in any form.

13 (c) A CRNP or a CNM authorized to prescribe,
14 administer, or dispense controlled substances in accordance
15 with this article may not prescribe, administer, or dispense
16 any controlled substance to himself, herself, or his or her
17 spouse, child, or parent.

18 §20-2-254.

19 The Board of Medical Examiners may deny an
20 application of a certified registered nurse practitioner
21 (CRNP) or a certified nurse midwife (CNM) requesting a
22 Qualified Alabama Controlled Substances Registration
23 Certificate (QACSC), deny a request for a renewal of a QACSC,
24 or initiate action against the QACSC of a CRNP or a CNM
25 possessing a QACSC based on the following grounds:

1 (1) Fraud or deceit in applying for, procuring, or
2 attempting to procure a QACSC in the State of Alabama.

3 (2) Conviction of a crime under any state or federal
4 law relating to any controlled substance.

5 (3) Conviction of a crime or offense which affects
6 the ability of the CRNP or CNM to practice with due regard for
7 the health or safety of his or her patients.

8 (4) Prescribing a drug or utilizing a QACSC in such
9 a manner as to endanger the health of any person or patient of
10 the CRNP, CNM, or collaborating physician.

11 (5) Suspension or revocation of the registration
12 number issued to the CRNP or CNM by the United States Drug
13 Enforcement Administration.

14 (6) Excessive dispensing or prescribing of any drug
15 to any person or patient of the CRNP, CNM, or collaborating
16 physician.

17 (7) Unfitness or incompetence due to the use of or
18 dependence on alcohol, chemicals, or any mood-altering drug to
19 such an extent as to render the CRNP or CNM unsafe or
20 unreliable to prescribe drugs or to hold a QACSC.

21 (8) Any violation of a requirement set forth in this
22 article or a rule adopted pursuant to this article.

23 §20-2-255.

24 (a) Any hearing regarding the issuance, restriction,
25 limitation, suspension or revocation of a Qualified Alabama

1 Controlled Substances Registration Certificate (QACSC) held by
2 a certified registered nurse practitioner or a certified nurse
3 midwife for any violations of this article shall be before the
4 Board of Medical Examiners.

5 (b) The board shall have the authority to restrict,
6 suspend, or revoke a QACSC, whenever a CRNP or a CNM is found
7 guilty on the basis of substantial evidence of any of the acts
8 or offenses enumerated in Section 20-2-254. The board shall
9 also have the authority to reinstate or to deny reinstatement
10 of a QACSC.

11 (c) The board may limit revocation or suspension of
12 a QACSC to the particular controlled substance with respect to
13 which grounds for revocation or suspension exist.

14 (d) The board shall promptly notify the Drug
15 Enforcement Administration of the United States Department of
16 Justice and the Alabama Board of Nursing of all orders
17 suspending or revoking a QACSC of a CRNP or a CNM.

18 (e) Any hearing conducted before the board in
19 accordance with this section shall be considered a contested
20 case under the Alabama Administrative Procedure Act, and shall
21 be conducted in accordance with the requirements of this
22 article.

23 §20-2-256.

24 (a) A certified registered nurse practitioner (CRNP)
25 or certified nurse midwife (CNM) adversely affected by an

1 order of the Board of Medical Examiners denying an application
2 for a Qualified Alabama Controlled Substances Registration
3 Certificate (QACSC) or the renewal of a QACSC may obtain
4 judicial review thereof by filing a written petition for
5 review with the Circuit Court of Montgomery County in
6 accordance with Section 41-22-20.

7 (b) A CRNP or a CNM adversely affected by an order
8 of the board suspending, revoking, or restricting a QACSC,
9 whether or not such suspension, revocation, or restriction is
10 limited; or denying reinstatement of a QACSC, may obtain
11 judicial review thereof by filing a written petition for
12 review with the Circuit Court of Montgomery County in
13 accordance with Section 41-22-20.

14 (c) The following procedures shall take precedence
15 over subsection (c) of Section 41-22-20 relating to the
16 issuance of a stay of any order of the board suspending,
17 revoking, or restricting a QACSC. The suspension, revocation,
18 or restriction of a QACSC shall be given immediate effect and
19 no stay or supersedeas shall be granted pending judicial
20 review of a decision by the board to suspend, revoke, or
21 restrict a QACSC unless a reviewing court, upon proof by the
22 party seeking judicial review, finds in writing that the
23 action of the board was taken without statutory authority, was
24 arbitrary or capricious, or constituted a gross abuse of
25 discretion.

1 (d) From the judgment of the circuit court, either
2 the board or any affected party who invoked judicial review
3 may obtain a review of any final judgment of the circuit court
4 under Section 41-22-21. No security shall be required of the
5 board.

6 §20-2-257.

7 The Board of Medical Examiners may charge and
8 collect fees to defray expenses incurred in the registration
9 and issuance of a Qualified Alabama Controlled Substances
10 Registration Certificate (QACSC) and the administration of
11 this article shall be the same as other mid-level providers.
12 The types and amounts of fees shall be established in rules
13 adopted by the board. The fees shall be retained by the board
14 and may be expended for the general operation of the board.

15 §20-2-258.

16 Any member of the Board of Medical Examiners, any
17 agent, employee, consultant, or attorney of the board, any
18 person making any report or rendering any opinion or supplying
19 any evidence or information or offering any testimony to the
20 board in connection with any investigation or hearing
21 conducted by the board as authorized in this article, shall be
22 immune from any lawsuit or legal proceeding for any conduct in
23 the course of his or her official duties with respect to such
24 investigations or hearings.

25 §20-2-259.

1 The Board of Medical Examiners may adopt rules
2 necessary to carry out the intent, purposes, and provisions of
3 this article.

4 Section 2. A new Article 12, consisting of Section
5 20-2-260, is added to Chapter 2, Title 20 of the Code of
6 Alabama 1975, to read as follows:

7 Article 12. Limited Purpose Schedule II Permit.
8 §20-2-260.

9 (a) The Board of Medical Examiners may at any future
10 date it chooses create a Limited Purpose Schedule II Permit
11 (LPSP), and assess fees associated with the permit, that,
12 along with any other necessary registration, may permit
13 assistants to physicians, certified registered nurse
14 practitioners, or certified nurse midwives to lawfully
15 prescribe, administer, authorize for administration, or
16 dispense only those controlled substances listed in Schedule
17 II substances of Article 2 of Chapter 2 of this title in
18 accordance, as specified and limited by the permit, with rules
19 adopted by the board and any protocols, formularies, and
20 medical regimens established by the board for regulation of a
21 LPSP. Any protocols, formularies, and medical regimens shall
22 not be considered administrative rules under the Alabama
23 Administrative Procedure Act.

24 (b) An assistant to physician, certified registered
25 nurse practitioner, or certified nurse midwife shall not

1 utilize his or her LPSP for the purchasing, obtaining,
2 maintaining, or ordering of any stock supply or inventory of
3 any controlled substance in any form.

4 (c) An assistant to physician, certified registered
5 nurse practitioner, or certified nurse midwife authorized to
6 prescribe, administer, or dispense controlled substances in
7 accordance with this article shall not prescribe, administer,
8 or dispense any controlled substance to his or her own self,
9 spouse, child, or parent.

10 (d) The board may not permit assistants to
11 physicians, certified registered nurse practitioners, or
12 certified nurse midwives to lawfully prescribe, administer,
13 authorize for administration, or dispense all controlled
14 substances listed in Schedule II of Article 2 of Chapter 2 of
15 this title. It is the intent of this article, if and when the
16 board chooses to use this authority at some future date, that
17 the LPSP may be used only at the board's discretion and as
18 limited by the board to specific circumstances and specific
19 drugs.

20 Section 3. Section 20-2-214 and 20-2-217 of the Code
21 of Alabama of 1975, are amended to read as follows:

22 "§20-2-214.

23 "The following persons or entities shall be
24 permitted access to the information in the controlled

1 substances database, subject to the limitations indicated
2 below:

3 "(1) Authorized representatives of the certifying
4 boards, provided, however, that access shall be limited to
5 inquiries concerning the licensees of the certifying board,
6 however, authorized representatives from the Board of Medical
7 Examiners may access the database to inquire about certified
8 registered nurse practitioners (CRNPs), or certified nurse
9 midwives (CNMs) that hold a Qualified Alabama Controlled
10 Substances Registration Certificate (QACSC).

11 "(2) A licensed practitioner approved by the
12 department who has authority to prescribe, dispense, or
13 administer controlled substances, provided, however, that such
14 access shall be limited to information concerning an assistant
15 to physician with a Qualified Alabama Controlled Substances
16 Registration Certificate over whom the practitioner exercises
17 physician supervision, a CRNP and a CNM with a QACSC over whom
18 the practitioner exercises professional oversight and
19 direction pursuant to an approved collaborative practice
20 agreement, and a current or prospective patient of the
21 practitioner. Practitioners shall have no requirement or
22 obligation to access or check the information in the
23 controlled substances database prior to prescribing,
24 dispensing, or administering medications or as part of their
25 professional practice.

1 "(3) A licensed assistant to physician approved by
2 the department who is authorized to prescribe, administer, or
3 dispense pursuant to a ~~Qualified Alabama Controlled Substances~~
4 ~~Registration Certificate~~ QACSC; provided, however, that such
5 access shall be limited to information concerning a current or
6 prospective patient of the assistant to physician.

7 "(4) A licensed certified registered nurse
8 practitioner or a licensed certified nurse midwife approved by
9 the department who is authorized to prescribe, administer, or
10 dispense pursuant to a QACSC; provided, however, that such
11 access shall be limited to information concerning a current or
12 prospective patient of the CRNP or CNM.

13 "~~(4)~~ (5) A licensed pharmacist approved by the
14 department, provided, however, that such access is limited to
15 information related to the patient or prescribing practitioner
16 designated on a controlled substance prescription that a
17 pharmacist has been asked to fill. Pharmacists shall have no
18 requirement or obligation to access or check the information
19 in the controlled substances database prior to dispensing or
20 administering medications or as part of their professional
21 practices.

22 "~~(5)~~ (6) State and local law enforcement authorities
23 as authorized under Section 20-2-91, and federal law
24 enforcement authorities authorized to access prescription
25 information upon application to the department accompanied by

1 an affidavit stating probable cause for the use of the
2 requested information.

3 "~~(6)~~ (7) Employees of the department and consultants
4 engaged by the department for operational and review purposes.

5 "~~(7)~~ (8) The prescription drug monitoring program of
6 any of the other states or territories of the United States,
7 if recognized by the Alliance for Prescription Drug Monitoring
8 Programs under procedures developed by the United States
9 Department of Justice or the Integrated Justice Information
10 Systems Institute or successor entity subject to or consistent
11 with limitations for access prescribed by this chapter for the
12 Alabama Prescription Drug Monitoring Program.

13 "§20-2-217.

14 "There is hereby assessed a surcharge in the amount
15 of ten dollars (\$10) per year on the controlled substance
16 registration certificate of each licensed medical, dental,
17 podiatric, optometric, and veterinary medicine practitioner
18 authorized to prescribe or dispense controlled substances and
19 on the Qualified Alabama Controlled Substances Registration
20 Certificate (QACSC) of each licensed assistant to physician,
21 certified registered nurse practitioner, or certified nurse
22 midwife. This surcharge shall be effective for every
23 practitioner certificate and every Qualified Alabama
24 Controlled Substances Registration Certificate (QACSC) issued
25 or renewed ~~on or after August 1, 2004,~~ shall be in addition to

1 any other fees collected by the certifying boards, and shall
2 be collected by each of the certifying boards and remitted to
3 the department at such times and in such manner as designated
4 in the regulations of the department. The proceeds of the
5 surcharge assessed herein shall be used exclusively for the
6 development, implementation, operation, and maintenance of the
7 controlled substances prescription database."

8 Section 4. This act shall become effective on the
9 first day of the fifth month following its passage and
10 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB229

Senate 16-APR-13

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 07-MAY-13

By: Senator Reed