

ARTICLE 5 ADVANCED PRACTICE NURSING

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§ 34-21-80 Declaration of Legislature.

The Legislature of the State of Alabama declares that the recognition and regulation of all areas of advanced practice nursing and the collaborative practices between licensed physicians and certified registered nurse practitioners and certified nurse midwives are essential to protect and maintain the public health and safety.

(Acts 1995, No. 95-263, p. 464, §1.)

§ 34-21-81 Definitions.

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

(1) BOARD OF MEDICAL EXAMINERS. The State Board of Medical Examiners established pursuant to Section 34-24-53.

(2) BOARD OF NURSING. The Board of Nursing established under Section 34-21-2.

(3) ADVANCED PRACTICE NURSE. A registered nurse that has gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles and has been certified by the Board of Nursing to engage in the practice of advanced practice nursing. There shall be four categories of advanced practice nurses: Certified registered nurse practitioners (CRNP), certified nurse midwives (CNM), certified registered nurse anesthetists (CRNA), and clinical nurse specialists (CNS). Certified registered nurse practitioners and certified nurse midwives are subject to collaborative practice agreements with an Alabama physician. Certified registered nurse anesthetists and clinical nurse specialists are not subject to collaborative practice agreements with an Alabama physician and are not subject to the requirements of Sections 34-21-82, 34-21-83, and 34-21-85 to 34-21-92, inclusive, and are prohibited from engaging in any of the acts or functions of a certified registered nurse practitioner (CRNP) or a certified nurse midwife (CNM) as established by this article and regulations adopted under this article.

(4) ADVANCED PRACTICE NURSING. The delivery of health care services by registered nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles as certified registered nurse practitioners, certified nurse midwives, certified nurse anesthetists, and clinical nurse specialists:

a. Practice as a certified registered nurse practitioner (CRNP) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he or she has advanced knowledge and skills in the delivery of nursing services within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the client.

b. Practice as a certified nurse midwife (CNM) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he or she has advanced knowledge and skills relative to the management of women's health care focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women, within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the client.

c. Practice as a certified registered nurse anesthetist (CRNA) means the performance of or the assistance in any act involving the determination, preparation, administration, or monitoring of any drug used to render an individual insensible to pain for surgical and other therapeutic or diagnostic procedures. The nurse anesthetist is qualified in accordance with Section 27-46-3 and is licensed by the Board of Nursing and functions under the direction of a physician licensed to practice medicine, or a dentist, who is immediately available.

d. Practice of clinical nurse specialist (CNS) nursing means the performance of nursing skills by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by certification, has advanced knowledge and practice skills in a specialized area of practice, except that a clinical nurse specialist may not do any of the following:

1. Perform delegated medical acts or engage in collaborative practice as described in this article.

2. Perform any of the functions of a certified registered nurse practitioner or a certified nurse midwife as described in this article and the regulations adopted under this article, whether or not performed within a collaborative practice relationship.

3. Prescribe drugs of any type. A clinical nurse specialist may perform nursing services permitted under this subdivision as an independent contractor.

(5) COLLABORATION. A formal relationship between one or more certified registered nurse practitioners and certified nurse midwives and a physician or physicians under which these nurses may engage in advanced practice nursing as evidenced by written protocols approved in accordance with the requirements of this article or exempted in accordance with requirements of this article. The term collaboration does not require direct, on-site supervision of the activities of a certified registered nurse practitioner or a certified nurse midwife by the collaborating physician. The term does require such professional oversight and direction as may be required by the rules and regulations of the State Board of Medical Examiners and the Board of Nursing.

(6) PHYSICIAN or COLLABORATING PHYSICIAN. A doctor of medicine or a doctor of osteopathy licensed to practice medicine in Alabama who agrees in writing to practice in collaboration with one or more certified registered nurse practitioners or certified nurse midwives in accordance with the rules and regulations adopted by the State Board of Medical Examiners and the Board of Nursing.

(7) JOINT COMMITTEE OF THE STATE BOARD OF MEDICAL EXAMINERS AND THE BOARD OF NURSING FOR ADVANCED PRACTICE NURSES. The Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses shall mean and shall be a committee composed of all of the following:

a. Two physicians licensed to practice medicine in the State of Alabama.

b. One registered nurse licensed to practice professional nursing in the State of Alabama.

c. One licensed physician engaged in a collaborative practice with a certified registered nurse practitioner or a certified nurse midwife in the State of Alabama.

d. One certified registered nurse practitioner engaged in advanced practice with a physician in the State of Alabama.

e. One certified nurse midwife engaged in advanced practice with a physician in the State of Alabama.

(8) LEGEND DRUG. Any drug, medicine, chemical, or poison bearing on the label the words, "Caution, Federal Law prohibits dispensing without prescription" or similar words indicating that such drug, medicine, chemical, or poison may be sold or dispensed only upon the prescription of a licensed practitioner, except that the term legend drug shall not include any drug, substance, or compound which is listed in Schedules I through V of the Alabama Uniform Controlled Substances Act.

(9) PRESCRIBE or PRESCRIBING. The act of issuing a written prescription for a legend drug.

(10) PRESCRIPTION. An order for a legend drug which is written and signed by a practitioner authorized by law to prescribe and administer such drugs and which is intended to be filled, compounded, or dispensed by a pharmacist.

(11) PROTOCOL. A document approved in accordance with Section 34-21-87 establishing the permissible functions and activities to be performed by certified registered nurse practitioners and certified nurse midwives and signed by collaborating physicians and any nurse practitioners or nurse midwives practicing with those physicians.

(Acts 1995, No. 95-263, p. 464, §2; Act 2001-239, p. 281, §3.)

§ 34-21-82 Joint committee - Appointment, terms of office, office of chairperson, and meetings.

(a)(1) The physician members of the joint committee shall be appointed by the State Board of Medical Examiners and shall serve three-year terms as set out below.

(2) The registered nurse members of the joint committee shall be appointed by the Board of Nursing and shall serve three-year terms as set out below.

(b)(1) In order to stagger the terms of office, the Board of Nursing and the State Board of Medical Examiners will each appoint to the initial joint committee one member for a term of one year, one member for a term of two years, and one member for a term of three years. Should a vacancy occur on the committee, a successor will be appointed to serve the unexpired term. The committee shall select one of its members to serve as chairperson for a one-year term.

(2) The office of chairperson shall alternate between a physician member of the committee and a nurse member of the committee.

(3) The committee shall meet annually, or more frequently if requested by the State Board of Medical Examiners or the Board of Nursing. Members of the committee shall receive per diem at a rate of \$100 per day or any portion thereof that such a committee member shall be in attendance at an official meeting or function of the committee and in addition shall receive reimbursement for subsistence and travel in accordance with state law for each day actively engaged in the duties of their offices. The State Board of

Medical Examiners and the Board of Nursing shall pay per diem and expenses of the members each appoints to the joint committee and shall furnish necessary clerical and administrative support for operation of the committee.

(Acts 1995, No. 95-263, p. 464, §3.)

§ 34-21-83 State Board of Medical Examiners to establish qualifications for physicians engaged in collaborative practice with advanced practice nurses.

The State Board of Medical Examiners shall establish the qualifications for physicians who are engaged in collaborative practice with certified registered nurse practitioners and certified nurse midwives. The board may adopt rules and regulations to accomplish the purposes of this section.

(Acts 1995, No. 95-263, p. 464, §4.)

§ 34-21-84 Board of Nursing to establish qualifications for advanced practice nurses; rules and regulations establishing procedures for certification.

(a) The Board of Nursing shall be the sole state authority designated to establish the qualifications necessary for a registered nurse to be certified to engage in advanced practice nursing. The Board of Nursing shall recognize the educational qualifications and training of advanced practice nurses by the issuance of a certification of qualification to engage in advanced practice nursing. To be eligible for certification, an applicant shall be currently licensed as a registered nurse in Alabama and shall meet the requirements for certification as an advanced practice nurse as defined in the rules and regulations established by the Board of Nursing.

(b) Pursuant to subsection (a), the Board of Nursing may adopt rules and regulations establishing the procedures for individuals to be certified to engage in advanced practice nursing, as well as grounds for denial or termination of certification or both, and the fees to be paid to the Board of Nursing in connection with an application for certification.

(Acts 1995, No. 95-263, p. 464, §5.)

§ 34-21-85 Joint committee designated to recommend rules and regulations; requirements to engage in advanced practice nursing.

The joint committee shall be the state authority designated to recommend rules and regulations to the State Board of Medical Examiners and the Board of Nursing for the purpose of regulating the collaborative practice of physicians and certified registered nurse practitioners and certified nurse midwives. No person may practice as a certified registered nurse practitioner or a certified nurse midwife in this state unless that person possesses a certificate of qualification issued by the Board of Nursing and practices under written protocols approved by the State Board of Medical Examiners and the Board of Nursing and signed by a qualified collaborating physician or physicians and certified registered nurse practitioner or certified nurse midwife or is exempt from the requirement of a written protocol according to rules promulgated by the State Board of Medical Examiners and the Board of Nursing. The joint committee shall recommend to

the State Board of Medical Examiners and the Board of Nursing rules and regulations designed to govern the collaborative relationship between physicians and certified registered nurse practitioners and certified nurse midwives certified by the Board of Nursing to engage in these areas of advanced practice nursing. These rules and regulations shall be finally adopted by July 1, 1996. These rules and regulations and any and all additions, deletions, corrections, or changes thereto shall be considered rules and regulations requiring publication under the Alabama Administrative Procedure Act; however, the following shall not be considered rules or regulations under the Administrative Procedure Act:

(1) Protocols for use by certified registered nurse practitioners and certified nurse midwives certified to engage in these two areas of advanced practice nursing in collaboration with a physician; and

(2) The formulary of legend drugs that may be prescribed by certified registered nurse practitioners and certified nurse midwives authorized to do so.

(Acts 1995, No. 95-263, p. 464, §6.)

§ 34-21-86 Prescribing legend drugs; initiating call-in prescriptions; administering legend drugs.

(a) Certified registered nurse practitioners and certified nurse midwives, engaged in collaborative practice with physicians practicing under protocols approved in the manner prescribed by this article may prescribe legend drugs to their patients, subject to both of the following conditions:

(1) The drug type, dosage, quantity prescribed, and number of refills shall be authorized in an approved protocol signed by the collaborating physician; and

(2) The drug shall be on the formulary recommended by the joint committee and adopted by the State Board of Medical Examiners and the Board of Nursing.

(b) A certified registered nurse practitioner or a certified nurse midwife may not initiate a call-in prescription in the name of a collaborating physician for any drug, whether legend or controlled substance, which the nurse practitioner or certified nurse midwife is not authorized to prescribe under the protocol signed by the collaborating physician and certified registered nurse practitioner or certified nurse midwife and approved under this section unless the drug is specifically ordered for the patient by the physician, either in writing or by a verbal order which has been reduced to writing, and which has been signed by the physician within a time specified in the rules and regulations approved by the State Board of Medical Examiners and the Board of Nursing.

(c) Registered nurses and licensed practical nurses are authorized to administer any legend drug that has been lawfully ordered or prescribed by an authorized practitioner including certified registered nurse practitioners, certified nurse midwives, and/or assistants to physicians.

(Acts 1995, No. 95-263, p. 464, §7.)

§ 34-21-87 Joint committee to recommend model practice protocols, formulary of legend drugs, and certain rules and regulations.

Notwithstanding any other provisions of this article, the joint committee shall recommend model practice protocols to be used by certified registered nurse practitioners and certified nurse midwives and a formulary of legend drugs that may be prescribed by these advanced practice nurses, subject to approval by both the State Board of Medical Examiners and the Board of Nursing. The joint committee shall also recommend rules and regulations to establish the ratio of physicians to certified registered nurse practitioners and certified nurse midwives; provided, however, that the rules and regulations shall not limit the ratio to less than two nurse practitioners or midwives to one physician or one certified registered nurse practitioner and one certified nurse midwife to one physician and shall provide for exceptions. The joint committee shall also recommend rules and regulations that establish the manner in which a collaborating physician may designate a covering physician when temporarily unavailable as the collaborating physician.

(Acts 1995, No. 95-263, p. 464, §8.)

§ 34-21-88 Acts which constitute grounds for termination.

The following acts shall constitute grounds for the termination by the Board of Nursing of a certified registered nurse practitioner's or a certified nurse midwife's certificate of qualification to engage in these areas of advanced practice nursing and for the termination of the approval of the State Board of Medical Examiners of the collaborating practice of a physician and certified registered nurse practitioner or a certified nurse midwife, or both:

- (1) Prescribing in violation of this article or the rules and regulations of the State Board of Medical Examiners or the Board of Nursing.
- (2) For a certified registered nurse practitioner or a certified nurse midwife to engage in any act or render any services not authorized in his or her protocol or for a physician to require or to knowingly permit or condone such an act.
- (3) Failure on the part of a certified registered nurse practitioner or a certified nurse midwife to maintain current licensure with the Board of Nursing or failure of a physician to maintain current licensure with the Medical Licensure Commission.
- (4) The commission of any act by a certified registered nurse practitioner or a certified nurse midwife which would constitute a violation of Section 34-21-25(b) or any act by a physician which would constitute a violation of Section 34-24-360.

(Acts 1995, No. 95-263, p. 464, §9.)

§ 34-21-89 Boards permitted to initiate disciplinary actions for violations of section; requirements before action taken.

The Board of Nursing may initiate disciplinary actions against a certified registered nurse practitioner or a certified nurse midwife for violations of Section 34-21-86. The

State Board of Medical Examiners may initiate disciplinary actions against a physician for violation of Section 34-21-86. Before either board takes such disciplinary action, it shall give the licensee against whom the action is contemplated a notice of the proposed action and an opportunity for a hearing before the respective board. All hearings shall be governed by the Alabama Administrative Procedure Act.

(Acts 1995, No. 95-263, p. 464, §10.)

§ 34-21-90 Requirements for engaging in practice.

No person shall engage in practice as a certified registered nurse practitioner or certified nurse midwife or in any of the acts or functions described in this article and the regulations adopted under this article in this state unless that person is certified by the Board of Nursing as an advanced practice nurse in a category of certified registered nurse practitioner or certified nurse midwife and is practicing in collaboration with a physician following protocols which have been approved in accordance with this article or has been exempted from the requirement of practicing in collaboration with a physician following protocols as provided in Section 34-21-85.

(Acts 1995, No. 95-263, p. 464, §11.)

§ 34-21-91 Injunctive proceedings by boards against persons violating article.

Both the State Board of Medical Examiners and the Board of Nursing in addition to the powers and duties otherwise expressed in this article, may commence and maintain in their own names in any circuit court having jurisdiction of any person within this state who is unlawfully engaging in advanced practice nursing as a certified registered nurse practitioner or a certified nurse midwife action in the nature of quo warranto as provided for in Section 6-6-590, et seq., to order the person to cease and desist from continuing to engage in these areas of advanced practice nursing within the State of Alabama, and jurisdiction is conferred upon the circuit courts of this state to hear and determine all such cases. The boards may commence and maintain such actions without the filing of bond or security and without the order or direction of a circuit judge. An injunction shall be issued upon proof that the person is now engaged in advanced practice nursing as a certified registered nurse practitioner or a certified nurse midwife in violation of this article without requiring proof of actual damage sustained by any person. In any case of violation of any injunction issued under this section, the court or any judge thereof may summarily try, and punish the offender for contempt of court. Injunctive proceedings as authorized in this section shall be in addition to, and not in lieu of, all penalties and other remedies prescribed by law.

(Acts 1995, No. 95-263, p. 464, §12.)

§ 34-21-92 Waiver of requirements until adoption of rules and regulations.

Until the State Board of Medical Examiners and the Board of Nursing adopt the rules and regulations necessary to effectuate the provisions of this article, the State Board of Medical Examiners and the Board of Nursing shall waive the requirements of Sections 34-21-84 and 34-21-85 and shall grant the appropriate certification to any nurse practitioner or nurse midwife who is currently certified or is eligible for certification to be

a certified registered nurse practitioner or certified nurse midwife and will continue to engage in practice under the existing rules and regulations. Until the State Board of Medical Examiners and the Board of Nursing adopt the rules and regulations necessary to effectuate the provisions of this article, the State Board of Medical Examiners and the Board of Nursing shall waive the requirements of Sections 34-21-84 and 34-21-85 and shall grant the appropriate approval to a collaborating physician submitting a request for approval of a collaborative practice agreement. Notwithstanding the provisions of Section 15 of Acts 1995, No. 95-263, nurse practitioners and nurse midwives are prohibited from prescribing until final rules and regulations are adopted by the State Board of Medical Examiners and the Board of Nursing in accordance with Section 34-21-87.

(Acts 1995, No. 95-263, p. 464, §13.)

§ 34-21-93 Construction of article with Sections 34-19-2 to 34-19-10.

The provisions of this article shall be applied and construed in pari materia with Sections 34-19-2 to 34-19-10. Upon final adoption of rules and regulations by the State Board of Medical Examiners and the Board of Nursing as authorized by this article, any inconsistent portions of Sections 34-19-2 to 34-19-10 are superseded.

(Acts 1995, No. 95-263, p. 464, §14.)