**South Carolina General Assembly**

125th Session, 2023-2024

**S. 517**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Davis

Companion/Similar bill(s): 553, 4272

Document Path: SR-0043JG23.docx

Introduced in the Senate on February 9, 2023

Currently residing in the Senate

Summary: APRN Scope of Practice

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/9/2023 Senate Introduced and read first time (Senate Journal‑page 7)

 2/9/2023 Senate Referred to Committee on **Medical Affairs** (Senate Journal‑page 7)

 2/15/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[02/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/517_20230209.docx)

[02/15/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/517_20230215.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40‑33‑20, RELATING TO DEFINITIONS, SO AS TO PROVIDE FULL PRACTICE AUTHORITY TO A LICENSED APRN, TO PROVIDE SCOPE OF PRACTICE OF MEDICAL ACTS FOR A LICENSED APRN, TO PROVIDE A MEANS FOR A CERTIFIED NURSE MIDWIFE TO OBTAIN AN APRN LICENSE, TO DEFINE FULL PRACTICE AUTHORITY, TO DEFINE GRADUATE REGISTERED NURSE‑MIDWIFE, and TO make CONFORMING CHANGES; BY AMENDING SECTION 40‑33‑34, RELATING TO THE PERFORMANCE OF MEDICAL ACTS, QUALIFICATIONS, PRACTICE AGREEMENTS, PRESCRIPTIVE AUTHORIZATION, ANESTHESIA CARE, AND DEFINITIONS, SO AS TO PROVIDE FOR SCOPE OF PRACTICE TO INCLUDE PRESCRIBING MEDICATIONS AND CONTROLLED SUBSTANCES, and TO MAKE CONFORMING changes; BY AMENDING SECTION 40‑33‑42, RELATING TO THE DELEGATION OF TASKS TO UNLICENSED ASSISTIVE PERSONNEL, SO AS TO PROVIDE FOR THE ADMINISTRATION OF MEDICATIONS AS THE RESPONSIBILITY OF A LICENSED NURSE AS PRESCRIBED BY THE ADVANCED PRACTICE REGISTERED NURSE; BY AMENDING SECTION 40‑33‑110, RELATING TO GROUNDS FOR DISCIPLINE OF LICENSEES, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑47‑37, RELATING TO THE PRACTICE OF TELEMEDICINE AND REQUIREMENTS, SO AS TO PROVIDE FOR THE SCOPE OF PRACTICE OF AN APRN TO INCLUDE TELEMEDICINE; BY AMENDING SECTION 40‑47‑20, RELATING TO DEFINITIONS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑47‑110, RELATING TO MISCONDUCT CONSTITUTING GROUNDS FOR DISCIPLINARY ACTION, TEMPORARY SUSPENSIONS, REVIEW OF FINAL ACTIONS, CONDUCT SUBVERTING SECURITY OR INTEGRITY OF MEDICAL LICENSING EXAMINATION PROCESS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑47‑113, RELATING TO THe ESTABLISHMENT OF A PHYSICIAN‑PATIENT RELATIONSHIP AS A PREREQUISITE TO PRESCRIBING DRUGS, SO AS TO MAKE CONFORMING CHANGES; AND BY AMENDING SECTION 40‑47‑195, RELATING TO SUPERVISING PHYSICIANS AND SCOPE OF PRACTICE GUIDELINES, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑33‑20(5) and (6) of the S.C. Code are amended to read:

 (5) “Advanced Practice Registered Nurse” or “APRN” means a registered nurse who is prepared for an advanced practice registered nursing role by virtue of additional knowledge and skills gained through an advanced formal education program of nursing in a specialty area that is approved by the board. The categories of APRN are nurse practitioner, certified nurse‑midwife, clinical nurse specialist, and certified registered nurse anesthetist. An advanced practice registered nurse shall hold a doctorate, a post‑nursing master's certificate, or a minimum of a master's degree that includes advanced education composed of didactic and supervised clinical practice in a specific area of advanced practice registered nursing. APRNs must achieve national certification within two years post‑graduation. An APRN may perform who holds a valid, full practice license may practice within the full scope of practice as defined in this section, including but not limited to, those activities considered to be the practice of registered nursing or advanced practice consisting of nonmedical acts, such as population health management; quality improvement or research projects within a health care system; and analysis of data and corresponding system recommendations, revisions, developments, or informatics; and other specified medical acts, including but not limited to, those provided in 40‑33‑34 and those allowed pursuant to federal law. . An APRN also may perform specified medical acts pursuant to a practice agreement as defined in item (45).

 (6) “Agreed to jointly” means the agreement by the Board of Nursing and Board of Medical Examiners on medical acts that nurses perform and that must be defined in a practice agreement pursuant to item (45).

SECTION 2. Section 40‑33‑20(11) of the S.C. Code is amended to read:

 (11) “Authorized licensed provider” means a provider of health care services who is authorized to practice by a licensing board in this State where the scope of practice includes authority to order and prescribe drugs or therapy in treating patients.

SECTION 3. Section 40‑33‑20(18) of the S.C. Code is amended to read:

 (18) “Certified Nurse‑Midwife” or “CNM” means an advanced practice registered nurse who holds a master's graduate degree in the specialty area, maintains an American Midwifery Certification Board certificate, and is trained and competent to provide management of women's health care from adolescence beyond menopause, focusing on gynecologic and family planning services, preconception care, pregnancy, childbirth, postpartum, care of the normal newborn during the first twenty‑eight days of life, and the notification and treatment of partners for sexually transmitted infections. A CNM shall have full practice authority once he obtains a valid, active South Carolina license as an advanced practice registered nurse according to the provisions of this chapter.

SECTION 4. Section 40‑33‑20(20) of the S.C. Code is amended to read:

 (20) “Clinical Nurse Specialist” or “CNS” means an advanced practice registered nurse who is a clinician with a high degree of knowledge, skill, and competence in a practice discipline of nursing. This nurse shall hold a master's graduate degree in nursing, with an emphasis in clinical nursing. These nurses are directly available to the public through the provision of nursing care to clients and indirectly available through guidance and planning of care with other nursing personnel. A CNS who performs medical acts is required to have physician support and to practice pursuant to a practice agreement as defined in item (45). A CNS who does not perform medical acts is not required to have physician support or to practice pursuant to a practice agreement as provided in Section 40‑33‑34.A CNS shall have full practice authority once he obtains a valid, active South Carolina license as an advanced practice registered nurse according to the provisions of this chapter.

SECTION 5. Section 40‑33‑20(27) of the S.C. Code is amended to read:

 (27) “Graduate Registered Nurse‑Midwife” or “GRNM” means a new graduate of an advanced organized formal graduate education program for nurse‑midwives accredited by the national accrediting organization. A GRNM is required to become certified within one year of graduation or program completion.

SECTION 6. Section 40‑33‑20(40) of the S.C. Code is amended to read:

 (40) “Nurse Practitioner” or “NP” means a registered nurse who has completed an advanced formal graduate education program at the master's level or doctoral level acceptable to the board, and who demonstrates advanced knowledge and skill in assessment and management of physical and psychosocial health, illness status of persons, families, and groups. Nurse practitioners who perform medical acts must do so pursuant to a practice agreement as defined in item (45).

SECTION 7. Section 40‑33‑20(45) of the S.C. Code is repealed.

SECTION 8. Section 40‑33‑20(52) of the S.C. Code is repealed.

SECTION 9. Section 40‑33‑20 of the S.C. Code is amended by adding:

 (68) “Full practice authority” means a NP, CNM, or CNS who is also licensed as an APRN by the South Carolina Board of Nursing to practice within the full scope of practice including ordering and interpreting diagnostic procedures; conducting an advanced assessment; providing a diagnosis; prescribing, ordering, administering, and dispensing therapeutic measures and pharmacological agents, including over‑the‑counter, legend, and controlled substances medications; delegating and assigning therapeutic measures to assisting personnel.

SECTION 10. Section 40‑33‑34 (C) and (D) of the S.C. Code are amended to read:

 (C)(1) A licensed nurse practitioner, certified nurse‑midwife, or clinical nurse specialist must provide evidence of a practice agreement, as provided in this section. A licensed NP, CNM, or CNS must spend a portion of his time practicing in an underserved or rural area or serving an underserved population as defined in Section 40‑33‑20. A licensed NP, CNM, or CNS performing medical acts must do so pursuant to a practice agreement with a physician who must be readily available for consultation. To the extent permitted by federal law, the Centers for Medicare or Medicaid, notwithstanding any provisions of law, and Chapter 47, an APRN may perform the following medical acts, including but not limited to:

 (D)(1) Medical acts performed by a nurse practitioner or clinical nurse specialist must be performed pursuant to a practice agreement between the nurse and the physician or medical staff. The practice agreement must include, but is not limited to:

 (a) the following general information:

 (i) name, address, and South Carolina license number of the nurse;

 (ii) name, address, and South Carolina license number of the physician;

 (iii) nature of practice and practice locations of the nurse and physician;

 (iv) date the practice agreement was entered into and dates the practice agreement was reviewed and amended; and

 (v) description of how consultation with the physician is provided and provision for backup consultation if the physician is unavailable; and

 (b) the following information for medical acts:

 (i) medical conditions for which therapies may be initiated, continued, or modified;

 (ii) treatments that may be initiated, continued, or modified;

 (iii) drug therapies that may be prescribed; and

 (iv) situations that require direct evaluation by or referral to the physician.

 (2) Notwithstanding any provisions of state law other than this chapter and Chapter 47, and to the extent permitted by federal law, an APRN may perform the following medical acts unless otherwise provided in the practice agreement:

 (a) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

 (b) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

 (c) refer a patient to physical therapy for treatment;

 (d) pronounce death, certify the manner and cause of death, and sign death certificates pursuant to the provisions of Chapter 63, Title 44 and Chapter 8, Title 32;

 (e) issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44;

 (f) certify that an individual is handicapped and declare that the handicap is temporary or permanent for purposes of the individual's application for a placard;

 (g) execute a do not resuscitate order and post an order pursuant to the provisions of Chapter 78, Title 44; and

 (h) issue an order for home health services pursuant to the provisions of Chapter 69, Title 44.;

 (i) delegate certain tasks to certified medical assistants pursuant to the provisions of Section 40‑47‑106;

 (j) commit a patient to a psychiatric facility if the patient is unable to consent and the APRN deems that the patient is a danger to himself or others;

 (k) hold admitting privileges within an acute care facility or a licensed birth center; and

 (l) engage in ionizing fluoroscopy pursuant to applicable regulations and the Medical Radiation Health and Safety Act.

 (3) The original practice agreement and any amendments to it must be reviewed at least annually, dated and signed by the nurse and physician, and made available to the board for review within seventy‑two hours of request. Failure to produce a practice agreement upon request of the board is considered misconduct and subjects the licensee to disciplinary action. A random audit of a practice agreement must be conducted by the board at least biennially.

 (4)(2) Licensees who change practice settings or physicians shall notify the board of the change within fifteen business days and provide verification of a practice agreement. NPs, CNMs, and CNSs who discontinue their practice shall notify the board within fifteen business days.

SECTION 11. Section 40‑33‑34 (F) and (G) of the S.C. Code is amended to read:

 (F)(1) Authorized prescriptions or institutional facility orders by a nurse practitioner, certified nurse‑midwife, or clinical nurse specialist with prescriptive authority:

 (a) must comply with all applicable state and federal laws and executive orders;

 (b) is limited to drugs, therapies, and devices utilized to treat medical problems within the specialty field of the nurse practitioner, certified nurse midwife, or clinical nurse specialist as prescribed in the practice agreement;

 (c) may include Schedules III through V controlled substances if listed in the practice agreement and as authorized by Section 44‑53‑300;

 (d) may include Schedule II nonnarcotic substances if listed in the practice agreement and as authorized by Section 44‑53‑300, provided, however, that each such prescription must not exceed a thirty‑day supply;

 (e) may include Schedule II narcotic substances if listed in the practice agreement and as authorized by Section 44‑53‑300, provided, however, that the prescription must not exceed a five‑day supply and another prescription must not be written without the written agreement of the physician with whom the nurse practitioner, certified nurse‑midwife, or clinical nurse specialist has entered into a practice agreement, unless the prescription is written for patients in hospice or palliative care or for patients residing in long‑term care facilities unless the patient is post operative or a patient of a chronic pain practice;

 (f) may include Schedule II narcotic substances for patients in hospice or palliative care, or for patients in long‑term care facilities, if listed in the practice agreement as authorized by Section 44‑53‑300, provided, however, that each such prescription must not exceed a thirty‑day supply;

 (g) may include ordering Schedules II‑V narcotic substances in acute care facilities or licensed birthing centers;

 (h) a CNM may dispense, prescribe, and administer Schedule II controlled substances in licensed birth centers;

 (i) a CNM may order, administer, and monitor effects of Schedule II‑V substances in the care of the inpatient persons in labor, postpartum, and gynecological care in accordance with federal state laws and institutional policies;

 (g)(j) must be signed or electronically submitted by the NP, CNM, or CNS with the prescriber's identification number assigned by the board and all prescribing numbers required by law. Written prescription forms must include the name, address, and phone number of the NP, CNM, or CNS and physician. Electronic prescription forms must include the name, address, and phone number of the NP, CNM, or CNS and, if possible, the physician through the electronic system. All prescriptions must comply with the provisions of Section 39‑24‑40. A prescription must designate a specific number of refills and may not include a nonspecific refill indication; and

 (h)(k) must be documented in the patient record of the practice and must be available for review and audit purposes.

 (2) An NP, CNM, or CNS who holds prescriptive authority may request, receive, and sign for professional samples, including controlled substances, and may distribute professional samples to patients as listed in the practice agreement, subject to federal and state regulations.

 (G) Prescriptive authorization may be terminated by the board if an NP, CNM, or CNS with prescriptive authority has:

 (1) not maintained certification in the specialty field;

 (2) failed to meet the education requirements for pharmacotherapeutics;

 (3) prescribed outside the scope of the practice agreement;

 (43) violated a provision of Section 40‑33‑110; or

 (54) violated any state or federal law or regulations applicable to prescriptions.

SECTION 12. Section 40‑33‑34(I) of the S.C. Code is amended to read:

 (I)(1) For purposes of this subsection:

 (a) “Telemedicine” has the same meaning as provided in Section 40‑47‑20(52).

 (b) “Unprofessional conduct” has the same meaning as provided in Section 40‑33‑20(64).

 (2) An APRN may perform medical acts via telemedicine pursuant to a practice agreement as defined in Section 40‑33‑20(45).

 (3) An APRN who establishes a nurse‑patient relationship solely by means of telemedicine shall adhere to the same standard of care as a licensee employing more traditional in‑person medical care. Failure to conform to the appropriate standard of care is considered unprofessional conduct and may be subject to enforcement by the board.

 (4) An APRN may not establish a nurse‑patient relationship by means of telemedicine for the purpose of prescribing medication when an in‑person physical examination is necessary for diagnosis.

 (5) An APRN who establishes a nurse‑patient relationship solely by means of telemedicine only may prescribe within a practice setting fully in compliance with this chapter and during an encounter in which threshold information necessary to make an accurate diagnosis is obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II through V prescriptions are only permitted pursuant to a practice agreement as defined in Section 40‑33‑20(45) and nothing in this item may be construed to authorize the prescribing of medications via telemedicine that otherwise are restricted by the limitations in Section 40‑47‑37(C)(6) unless approved by a joint committee of the Board of Medical Examiners and the Board of Nursing.

 (6) An APRN who establishes a nurse‑patient relationship solely by means of telemedicine shall generate and maintain medical records for each patient using those telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including the provisions of this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). These records must be accessible to other practitioners and to the patient in a timely fashion when lawfully requested by the patient or his lawfully designated representative.

 (7) The provisions of this subsection may not be construed to allow an APRN to perform services beyond the scope of what is authorized by Chapter 33, Title 40 and Chapter 47, Title 40.

SECTION 13. Section 40‑33‑42(C) of the S.C. Code is amended to read:

 (C) Subject to the rights of licensed physicians and dentists under state law, and except as provided in Section 40‑47‑196 regarding the delegation of tasks to certified medical assistants, the administration of medications is the responsibility of a licensed nurse as prescribed by the advanced practice registered nurse, licensed physician, dentist, other authorized licensed provider or as authorized in an approved written protocol or guidelines. Unlicensed assistive personnel must not administer medications, except as otherwise provided by law.

SECTION 14. Section 40‑33‑110(A)(26)‑(29) of the S.C. Code is amended to read:

 (26) failed to timely notify the department of changes in information required in an original or renewal application; or

 (27) engaged in practice as an NP, CNS, or CNM without a compliant practice agreement as defined in Section 40‑33‑20(45);

 (28) failed to follow or comply with the practice agreement as defined by Section 40‑33‑20(45); or

 (29)(27) knowingly allowed himself to be misrepresented as a physician.

SECTION 15. Section 40‑47‑37 (A), (B), (C), and (C)(9) of the S.C. Code is amended to read:

 (A) A licensee who establishes a physicianprovider‑patient relationship solely via telemedicine as defined in Section 40‑47‑20(52) shall adhere to the same standard of care as a licensee employing more traditional in‑person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. A licensee shall not establish a physicianprovider‑patient relationship by telemedicine pursuant to Section 40‑47‑113(B) for the purpose of prescribing medication when an in‑person physical examination is necessary for diagnosis. The failure to conform to the appropriate standard of care is considered unprofessional conduct under Section 40‑47‑110(B)(9).

 (B) A licensee who establishes a physicianprovider‑patient relationship solely via telemedicine as defined in Section 40‑47‑20(52) shall generate and maintain medical records for each patient using such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.

 (C) In addition to those requirements set forth in subsections (A) and (B), a licensee who establishes a physicianprovider‑patient relationship solely via telemedicine as defined in Section 40‑47‑20(52) shall:

 (9) be licensed to practice medicine or advanced practice nursing with full practice authority in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical or APRN license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards; and

SECTION 16. Section 40‑47‑37(E) of the S.C. Code is amended to read:

 (E) Notwithstanding any of the provisions of this section, the board shall retain all authority with respect to telemedicine practice as granted in Section 40‑47‑10(I) of this chapter.

SECTION 17. Section 40‑47‑20(4) of the S.C. Code is repealed.

SECTION 18. Section 40‑47‑20(35) of the S.C. Code is repealed.

SECTION 19. Section 40‑47‑20(43) of the S.C. Code is repealed.

SECTION 20. Section 40‑47‑110(B)(26) and (27) of the S.C. Code is amended to read:

 (B) “Misconduct” that constitutes grounds for disciplinary action is a showing to the board by the preponderance of evidence that a licensee has:

 (26) engaged in a practice with an NP, CNM, or CNS without a practice agreement as defined in Section 40‑47‑20(35) in place at the time that practice was initiated and during its continuation; or

 (27) failed to follow or comply with the practice agreement as defined in Section 40‑47‑20(35) while engaged in a practice with an NP, CNM, or CNS.

SECTION 21. Section 40‑47‑113(B) of the S.C. Code is amended to read:

 (B) Notwithstanding subsection (A), a licensee may prescribe for a patient whom the licensee has not personally examined under certain circumstances including, but not limited to, writing admission orders for a newly hospitalized patient, prescribing for a patient of another licensee for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, continuing medication on a short‑term basis for a new patient before the patient's first appointment, or prescribing for a patient for whom the licensee has established a physician‑patient relationship solely via telemedicine so long as the licensee complies with Section 40‑47‑37 of this act.

SECTION 22. Sections 40‑47‑195(D)(1), 40‑47‑195 (D)(1)(c), and 40‑47‑195(D)(1)(d) of the S.C. Code are amended to read:

 (D)(1) A physician or medical staff who are engaged in practice with a PA, NP, CNM, or CNS must:

 (c) not enter into scope of practice guidelines or practice agreements with more than the equivalent of six full‑time PAs, NPs, CNMs, or CNSs and must not practice in a situation in which the number of NPs, CNMs, or CNSs providing clinical services with whom the physician is working, combined with the number of PAs providing clinical services whom the physician is supervising, is greater than six individuals at any one time, provided, however, that the board may approve an exception to these requirements upon application by the physician, if the board determines that an exception is warranted and that quality of care and patient safety will be maintained;

 (d) not enter into a practice agreement with a PA, NP, CNM, or CNS performing a medical act, task, or function that is outside the usual practice of that physician or outside of the physician's training or experience, provided, however, that the board may approve an exception to this requirement upon application by the physician, if the board determines that an exception is warranted and that quality of care and patient safety will be maintained; and

SECTION 23. This act takes effect upon approval by the Governor.

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