

1 HB443  
2 190525-1  
3 By Representative Shedd  
4 RFD: Health  
5 First Read: 22-FEB-18

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8 SYNOPSIS: Existing law requires nurse practitioners  
9 and nurse midwives to practice in collaboration  
10 with physicians.

11 This bill would enable nurse practitioners  
12 and nurse midwives to practice within the scope  
13 permitted by the Board of Nursing and to prescribe  
14 medications within the scope permitted by the Board  
15 of Medical Examiners and the Board of Nursing  
16 without requiring them to practice in collaboration  
17 with a physician.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to nurse practitioners and nurse midwives;  
24 to amend Sections 20-2-250, 20-2-252, 20-2-254, 34-21-81,  
25 34-21-84, 34-21-85, 34-21-86, 34-21-87, 34-21-88, 34-21-90,  
26 Code of Alabama 1975, to enable nurse practitioners and nurse  
27 midwives to practice within the scope permitted by the Board

1 of Nursing and to prescribe medications within the scope  
2 permitted by the Board of Medical Examiners and the Board of  
3 Nursing without requiring them to practice in collaboration  
4 with a physician, and to repeal Sections 34-21-80, 34-21-83,  
5 34-21-92, and 34-21-93, Code of Alabama 1975.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 20-2-250, 20-2-252, 20-2-254,  
8 34-21-81, 34-21-84, 34-21-85, 34-21-86, 34-21-87, 34-21-88,  
9 34-21-90, Code of Alabama 1975, are amended to read as  
10 follows:

11 "§20-2-250.

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

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

18 "~~a. A collaborating physician or, in his or her~~  
19 ~~presence, his or her authorized agent.~~

20 "b.a. A certified registered nurse practitioner or  
21 certified nurse midwife.

22 "c.b. The patient at the direction and in the  
23 presence of the ~~collaborating physician,~~ certified registered  
24 nurse practitioner, or certified nurse midwife.

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

1           "(3) CERTIFIED NURSE MIDWIFE or CNM. An advanced  
2 practice nurse ~~who is subject to a collaborative practice~~  
3 ~~agreement with a collaborating physician pursuant to Title 34,~~  
4 ~~Chapter 21, Article 5,~~ and who has advanced knowledge and  
5 skills relative to the management of women's health care  
6 focusing on pregnancy, childbirth, the postpartum period, care  
7 of the newborn, family planning, and gynecological needs of  
8 women, within a health care system that provides for  
9 consultation, ~~collaborative management,~~ or referral as  
10 indicated by the health status of the patient.

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

19           "~~(5) COLLABORATING PHYSICIAN. A doctor of medicine~~  
20 ~~or doctor of osteopathy licensed to practice medicine in~~  
21 ~~Alabama who agrees in writing to practice in collaboration~~  
22 ~~with one or more certified registered nurse practitioners or~~  
23 ~~certified nurse midwives in accordance with Title 34, Chapter~~  
24 ~~21, Article 5, and the rules and regulations adopted by the~~  
25 ~~Board of Medical Examiners and the Board of Nursing.~~

26           "~~(6)~~ (5) PRESCRIBE or PRESCRIBING. The act of issuing  
27 a prescription for a controlled substance.

1           "~~(7)~~(6) PRESCRIPTION. Any order for a controlled  
2 substance written or signed or transmitted by word of mouth,  
3 telephone, telegraph, closed circuit television, or other  
4 means of communication by a legally competent ~~collaborating~~  
5 ~~physician~~, certified registered nurse practitioner, or  
6 certified nurse midwife authorized by law to prescribe and  
7 administer the drug which is intended to be filled,  
8 compounded, or dispensed by a pharmacist.

9           "(8) QACSC. A Qualified Alabama Controlled  
10 Substances Registration Certificate.

11           "§20-2-252.

12           "The Board of Medical Examiners may grant a  
13 Qualified Alabama Controlled Substances Registration  
14 Certificate (QACSC) to a certified registered nurse  
15 practitioner (CRNP) or certified nurse midwife (CNM) who:

16           "(1) Is practicing in accordance with this article,  
17 and Title 34, Chapter 21, Article 5, ~~and all rules and~~  
18 ~~regulations pertaining to collaboration between a qualified~~  
19 ~~physician and a qualified CRNP or a CNM.~~

20           "(2) Submits proof of successful completion of a  
21 course or courses approved by the board which includes  
22 advanced pharmacology and prescribing trends relating to  
23 controlled substances and which is consistent with the same  
24 requirements for other mid-level providers.

25           "~~(3) Provides accurate and complete documentation of~~  
26 ~~12 or more months of active, clinical practice with one or~~  
27 ~~more collaborative practices agreement which is governed by~~

1 ~~Title 34, Chapter 21, Article 5 and which has received final~~  
2 ~~approval from the Board of Medical Examiners and the Alabama~~  
3 ~~Board of Nursing. Temporary approval practice and provisional~~  
4 ~~approval practice shall not be used or considered to meet the~~  
5 ~~requirement of 12 or more months of active, clinical practice.~~

6 "§20-2-254.

7 "The Board of Medical Examiners may deny an  
8 application of a certified registered nurse practitioner  
9 (CRNP) or a certified nurse midwife (CNM) requesting a  
10 Qualified Alabama Controlled Substances Registration  
11 Certificate (QACSC), deny a request for a renewal of a QACSC,  
12 or initiate action against the QACSC of a CRNP or a CNM  
13 possessing a QACSC based on the following grounds:

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

16 "(2) Conviction of a crime under any state or  
17 federal law relating to any controlled substance.

18 "(3) Conviction of a crime or offense which affects  
19 the ability of the CRNP or CNM to practice with due regard for  
20 the health or safety of his or her patients.

21 "(4) Prescribing a drug or utilizing a QACSC in such  
22 a manner as to endanger the health of any person or patient of  
23 the CRNP, or CNM, ~~or collaborating physician.~~

24 "(5) Suspension or revocation of the registration  
25 number issued to the CRNP or CNM by the United States Drug  
26 Enforcement Administration.

1           "(6) Excessive dispensing or prescribing of any drug  
2 to any person or patient of the CRNP, or CNM, ~~or collaborating~~  
3 ~~physician.~~

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

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

10           "§34-21-81.

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

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

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

17           "(3) ADVANCED PRACTICE NURSE. A registered nurse  
18 that has gained additional knowledge and skills through  
19 successful completion of an organized program of nursing  
20 education that prepares nurses for advanced practice roles and  
21 has been certified by the Board of Nursing to engage in the  
22 practice of advanced practice nursing. There shall be four  
23 categories of advanced practice nurses: Certified registered  
24 nurse practitioners (CRNP), certified nurse midwives (CNM),  
25 certified registered nurse anesthetists (CRNA), and clinical  
26 nurse specialists (CNS). ~~Certified registered nurse~~  
27 ~~practitioners and certified nurse midwives are subject to~~

1 ~~collaborative practice agreements with an Alabama physician.~~  
2 ~~Certified registered nurse anesthetists and clinical nurse~~  
3 ~~specialists are not subject to collaborative practice~~  
4 ~~agreements with an Alabama physician and are not subject to~~  
5 ~~the requirements of Sections 34-21-82, 34-21-83, and 34-21-85~~  
6 ~~to 34-21-92, inclusive, and are prohibited from engaging in~~  
7 ~~any of the acts or functions of a certified registered nurse~~  
8 ~~practitioner (CRNP) or a certified nurse midwife (CNM) as~~  
9 ~~established by this article and regulations adopted under this~~  
10 ~~article.~~

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

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

25           "b. Practice as a certified nurse midwife (CNM)  
26 means the performance of nursing skills by a registered nurse  
27 who has demonstrated by certification that he or she has



1 advanced knowledge and skills relative to the management of  
2 women's health care focusing on pregnancy, childbirth, the  
3 postpartum period, care of the newborn, family planning, and  
4 gynecological needs of women, within a health care system that  
5 provides for consultation, ~~collaborative management,~~ or  
6 referral as indicated by the health status of the client.

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

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

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

26 "2. Perform any of the functions of a certified  
27 registered nurse practitioner or a certified nurse midwife as

1 described in this article and the regulations adopted under  
2 this article, whether or not performed within a collaborative  
3 practice relationship.

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

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

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

1                   "~~(7)~~ (5) JOINT COMMITTEE OF THE STATE BOARD OF  
2 MEDICAL EXAMINERS AND THE BOARD OF NURSING FOR ADVANCED  
3 PRACTICE NURSES. The Joint Committee of the State Board of  
4 Medical Examiners and the Board of Nursing for Advanced  
5 Practice Nurses shall mean and shall be a committee composed  
6 of all of the following:

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

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

11                   "~~c. One licensed physician engaged in a  
12 collaborative practice with a certified registered nurse  
13 practitioner or a certified nurse midwife in the State of  
14 Alabama.~~

15                   "~~d.~~ c. One certified registered nurse practitioner  
16 engaged in advanced practice ~~with a physician~~ in the State of  
17 Alabama.

18                   "~~e.~~ d. One certified nurse midwife engaged in  
19 advanced practice ~~with a physician~~ in the State of Alabama.

20                   "~~(8)~~ (6) LEGEND DRUG. Any drug, medicine, chemical,  
21 or poison bearing on the label the words, "Caution, Federal  
22 Law prohibits dispensing without prescription" or similar  
23 words indicating that such drug, medicine, chemical, or poison  
24 may be sold or dispensed only upon the prescription of a  
25 licensed practitioner, except that the term legend drug shall  
26 not include any drug, substance, or compound which is listed

1 in Schedules I through V of the Alabama Uniform Controlled  
2 Substances Act.

3 "~~(9)~~ (7) PRESCRIBE or PRESCRIBING. The act of issuing  
4 a written prescription for a legend drug.

5 "~~(10)~~ (8) PRESCRIPTION. An order for a legend drug  
6 which is written and signed by a practitioner authorized by  
7 law to prescribe and administer such drugs and which is  
8 intended to be filled, compounded, or dispensed by a  
9 pharmacist.

10 "~~(11)~~ (9) PROTOCOL. A document ~~approved in accordance~~  
11 ~~with Section 34-21-87~~ establishing the permissible functions  
12 and activities to be performed by certified registered nurse  
13 practitioners and certified nurse midwives, approved in  
14 accordance with 34-21-87 ~~and signed by collaborating~~  
15 ~~physicians and any nurse practitioners or nurse midwives~~  
16 ~~practicing with those physicians.~~

17 "§34-21-84.

18 "(a) The Board of Nursing shall be the sole state  
19 authority designated to establish the qualifications necessary  
20 for a registered nurse to be certified to engage in advanced  
21 practice nursing. The Board of Nursing shall recognize the  
22 educational qualifications and training of advanced practice  
23 nurses by the issuance of a certification of qualification to  
24 engage in advanced practice nursing. To be eligible for  
25 certification, an applicant shall be currently licensed as a  
26 registered nurse in Alabama and shall meet the requirements

1 for certification as an advanced practice nurse as defined in  
2 the rules and regulations established by the Board of Nursing.

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

10 "§34-21-85.

11 "The joint committee shall be the state authority  
12 designated to recommend rules and regulations to the ~~State~~  
13 ~~Board of Medical Examiners and the~~ Board of Nursing for the  
14 purpose of regulating ~~the collaborative~~ nursing practice of  
15 ~~physicians and certified registered nurse practitioners and~~  
16 ~~certified nurse midwives. No person may practice as a~~  
17 ~~certified registered nurse practitioner or a certified nurse~~  
18 ~~midwife in this state unless that person possesses a~~  
19 ~~certificate of qualification issued by the Board of Nursing~~  
20 ~~and practices under written protocols approved by the State~~  
21 ~~Board of Medical Examiners and the Board of Nursing and signed~~  
22 ~~by a qualified collaborating physician or physicians and~~  
23 ~~certified registered nurse practitioner or certified nurse~~  
24 ~~midwife or is exempt from the requirement of a written~~  
25 ~~protocol according to rules promulgated by the State Board of~~  
26 ~~Medical Examiners and the Board of Nursing. The joint~~  
27 ~~committee shall recommend to the State Board of Medical~~

1 ~~Examiners and the Board of Nursing rules and regulations~~  
2 ~~designed to govern the collaborative relationship between~~  
3 ~~physicians and certified registered nurse practitioners and~~  
4 ~~certified nurse midwives certified by the Board of Nursing to~~  
5 ~~engage in these areas of advanced practice nursing. These~~  
6 ~~rules and regulations shall be updated to reflect the~~  
7 ~~amendment of this article finally adopted by July October 1,~~  
8 ~~1996 2018.~~ These rules and regulations and any and all  
9 additions, deletions, corrections, or changes thereto shall be  
10 considered rules and regulations requiring publication under  
11 the Alabama Administrative Procedure Act ~~however, the~~  
12 ~~following shall not be considered rules or regulations under~~  
13 ~~the Administrative Procedure Act: except with regard to the~~  
14 ~~formulary of legend drugs that may be prescribed by certified~~  
15 ~~registered nurse practitioners and certified nurse midwives~~  
16 ~~authorized to do so. A person may not practice as a certified~~  
17 ~~registered nurse practitioner or certified nurse midwife in~~  
18 ~~this state unless that person possesses a certificate of~~  
19 ~~qualification issued by the Board of Nursing and practices~~  
20 ~~under written protocols approved by the Board of Nursing..~~

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

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

1                   "§34-21-86.

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

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

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

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

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

7           "§34-21-87.

8           "Notwithstanding any other provisions of this  
9 article, the joint committee shall recommend model practice  
10 protocols to be used by certified registered nurse  
11 practitioners and certified nurse midwives ~~and a formulary of~~  
12 ~~legend drugs that may be prescribed by these advanced practice~~  
13 ~~nurses, subject to approval by both the State Board of Medical~~  
14 ~~Examiners and the Board of Nursing, and a formulary of legend~~  
15 drugs that may be prescribed by advanced practice nurses,  
16 subject to approval by both the State Board of Medical  
17 Examiners and the Board of Nursing. The joint committee shall  
18 ~~also recommend rules and regulations to establish the ratio of~~  
19 ~~physicians to certified registered nurse practitioners and~~  
20 ~~certified nurse midwives; provided, however, that the rules~~  
21 ~~and regulations shall not limit the ratio to less than two~~  
22 ~~nurse practitioners or midwives to one physician or one~~  
23 ~~certified registered nurse practitioner and one certified~~  
24 ~~nurse midwife to one physician and shall provide for~~  
25 ~~exceptions. The joint committee shall also recommend rules and~~  
26 ~~regulations that establish the manner in which a collaborating~~



1 ~~physician may designate a covering physician when temporarily~~  
2 ~~unavailable as the collaborating physician.~~

3 "§34-21-88.

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

12 "(1) Prescribing in violation of this article or the  
13 rules and regulations of the State Board of Medical Examiners  
14 or the Board of Nursing.

15 "(2) For a certified registered nurse practitioner  
16 or a certified nurse midwife to engage in any act or render  
17 any services not authorized in his or her protocol or for a  
18 physician to require or to knowingly permit or condone such an  
19 act.

20 "(3) Failure on the part of a certified registered  
21 nurse practitioner or a certified nurse midwife to maintain  
22 current licensure with the Board of Nursing ~~or failure of a~~  
23 ~~physician to maintain current licensure with the Medical~~  
24 ~~Licensure Commission.~~

25 "(4) The commission of any act by a certified  
26 registered nurse practitioner or a certified nurse midwife  
27 which would constitute a violation of Section 34-21-25(b) ~~or~~

1 ~~any act by a physician which would constitute a violation of~~  
2 ~~Section 34-24-360.~~

3 "§34-21-90.

4 "No person shall engage in practice ~~as a certified~~  
5 ~~registered nurse practitioner or certified nurse midwife or~~ in  
6 any of the acts or functions described in this article and the  
7 regulations adopted under this article in this state unless  
8 that person is certified by the Board of Nursing as an  
9 advanced practice nurse ~~in a category of certified registered~~  
10 ~~nurse practitioner or certified nurse midwife and is~~  
11 ~~practicing in collaboration with a physician~~ and is following  
12 protocols which have been approved in accordance with this  
13 article ~~or has been exempted from the requirement of~~  
14 ~~practicing in collaboration with a physician following~~  
15 ~~protocols as provided in Section 34-21-85~~ for his or her  
16 nursing position."

17 Section 2. Sections 34-21-80, 34-21-83, 34-21-92,  
18 and 34-21-93, Code of Alabama 1975, are repealed.

19 Section 3. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.