

1 HB683  
2 139769-2  
3 By Representative Wren  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 12-APR-12

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8 SYNOPSIS: Existing law provides for the licensure of  
9 certified registered nurse practitioners and the  
10 State Board of Medical Examiners established the  
11 qualifications for physicians engaged in  
12 collaborative practice with certified registered  
13 nurse practitioners.

14 This bill would allow for the prescribing of  
15 certain schedules of controlled substances; would  
16 provide for qualifications to obtain a Qualified  
17 Alabama Controlled Substances Registration  
18 Certificate (QACSC) and prescription authority;  
19 would certify the State Board of Medical Examiners  
20 to register and approve certified registered nurse  
21 practitioners to obtain or renew a QACSC and would  
22 authorize the board to adopt regulations regarding  
23 the application procedures, fees, fines,  
24 punishment, and conduct for any disciplinary  
25 hearings for certified registered nurse  
26 practitioners applying for or in possession of a  
27 QACSC; would provide for denials of application and

1 disciplinary action; would provide for an appeals  
2 process; would provide for the board to charge and  
3 collect fees, costs, and expenses; and would  
4 provide for immunity.

5 Existing law provides for limited access to  
6 the controlled substances prescription database and  
7 a surcharge on a controlled substance registration  
8 certificate.

9 This bill would provide for access by a  
10 certified registered nurse practitioner with a  
11 QACSC and payment of the surcharge on each QACSC.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 Relating to certified registered nurse  
18 practitioners; to add a new Article 3B to Chapter 2 to Title  
19 20 to the Code of Alabama 1975, to allow for the prescribing  
20 of certain schedules of controlled substances by certified  
21 registered nurse practitioners in collaboration with certain  
22 physicians; to provide qualifications of certified registered  
23 nurse practitioners to obtain a Qualified Alabama Controlled  
24 Substances Registration Certificate (QACSC); to provide for  
25 prescriptive authority of certified registered nurse  
26 practitioners in possession of a QACSC; to certify the State  
27 Board of Medical Examiners to register and approve certified

1 registered nurse practitioners to obtain or renew a QACSC ; to  
2 authorize the board to adopt regulations regarding the  
3 application procedures, fees, fines, punishment, and conduct  
4 for any disciplinary hearings for certified registered nurse  
5 practitioners applying for or in possession of a QACSC; to  
6 provide for denials of applications and for disciplinary  
7 action; to provide for an appeals process; to provide for the  
8 board to charge and collect fees, costs, and expenses; to  
9 provide for immunity; to amend Sections 20-2-214 and 20-2-217  
10 of the Code of Alabama 1975, relating to the controlled  
11 substances prescription database; to provide for access by a  
12 certified registered nurse practitioner with a QACSC; and to  
13 provide for payment of the surcharge on each QACSC.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Article 3B to Chapter 2 of Title 20 is  
16 added to the Code of Alabama 1975, to read as follows:

17 §20-2-80.

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

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

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

26 b. A certified registered nurse practitioner in  
27 collaborative practice with a physician.

1           c. The patient at the direction and in the presence  
2 of the collaborating physician or certified registered nurse  
3 practitioners.

4           (2) BOARD. The State Board of Medical Examiners.

5           (3) CERTIFIED REGISTERED NURSE PRACTITIONER. Any  
6 person who is a graduate of an approved program, is licensed  
7 by the Alabama Board of Nursing (ABN), and is registered by  
8 the ABN to perform medical services in coordination with a  
9 physician approved by the State Board of Medical Examiners to  
10 engage in collaborative practice with CRNP.

11           (4) COLLABORATING PHYSICIAN. A doctor of medicine or  
12 a doctor of osteopathy licensed to practice medicine in  
13 Alabama who agrees in writing to practice in collaboration  
14 with one or more CRNPs in accordance with the rules and  
15 regulations adopted by the State Board of Medical Examiners  
16 and the Board of Nursing.

17           (5) COLLABORATIVE AGREEMENT. A formal relationship  
18 between one or more certified CRNPs and a physician or  
19 physicians under which these nurses may engage in advanced  
20 practice nursing as evidenced by written protocols approved in  
21 accordance with Section 34-21-81. The term "collaboration"  
22 does not require direct, on-site oversight of the activities  
23 of a CRNP by the collaborating physician. The term does  
24 require such professional oversight and direction as may be  
25 required by the rules and regulations of the State Board of  
26 Medical Examiners and the Board of Nursing.

1                   (6) PHYSICIAN OVERSIGHT OF A CERTIFIED NURSE  
2 PRACTITIONER. Ten percent collaborating physician oversight  
3 with a CRNP or immediate availability by phone, email, text,  
4 video feed, or other telemedicine options between a CRNP and  
5 collaborating physician.

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

8                   (8) PRESCRIPTION. Any order for a controlled  
9 substance written or signed or transmitted by word of mouth,  
10 telephone, telegraph, closed circuit television, or other  
11 means of communication by a legally competent collaborating  
12 physician or CRNP authorized by law to prescribe and  
13 administer such drug which is intended to be filled,  
14 compounded, or dispensed by a pharmacist.

15                   §20-2-81.

16                   (a) The board is designated as the certifying board  
17 for the registration and approval of CRNPs in obtaining or  
18 renewing a Qualified Alabama Controlled Substances  
19 Registration Certificate, hereinafter QACSC. Only the Joint  
20 Committee of the State Board of Medical Examiners and the  
21 Board of Nursing for Advanced Practice Nurses may adopt  
22 regulations concerning the formulary for any and all  
23 medications including controlled substances. The board shall  
24 establish a unique qualified Alabama controlled substances  
25 registration certificate number that identifies the particular  
26 applicant as a CRNP in collaboration with a physician with a  
27 valid QACSC.

1 (b) The board, and its agents, attorneys, or  
2 investigators shall be permitted access to the records of any  
3 physician in collaboration with a CRNP, including patient  
4 records, which would relate to a request for a QACSC, a  
5 renewal of a QACSC or the possible violations of any  
6 provisions of the Alabama Uniform Controlled Substances Act,  
7 this article, or applicable regulations of the board and the  
8 Board of Nursing.

9 (c) The Joint Committee of the board and the Board  
10 of Nursing for Advanced Practice Nurses may establish  
11 protocols, formularies, or medical regimens which relate to,  
12 govern, or regulate a QACSC, and any such protocol, formulary,  
13 or medical regimen shall not be considered a rule or  
14 regulation under the Alabama Administrative Procedure Act.

15 §20-2-82.

16 The board may grant a QACSC to a CRNP, in  
17 collaboration with a physician, who:

18 (1) Is practicing with appropriate physician  
19 collaboration as defined in this article and in accordance  
20 with Article 81 of Chapter 21 of Title 34 and all rules and  
21 regulations pertaining to the collaborating agreement between  
22 qualified physicians and qualified CRNPs.

23 (2) Submits proof of successful completion of a  
24 course or courses approved by the board which includes  
25 advanced pharmacology and prescribing trends relating to  
26 controlled substances.

1           (3) Provides accurate and complete documentation of  
2 a minimum of 12 months of active, collaborative practice with  
3 a physician.

4           §20-2-83.

5           (a) Upon receipt of a QACSC and a valid registration  
6 number issued by the United States Drug Enforcement  
7 Administration, a CRNP may prescribe, administer, authorize  
8 for administration, or dispense only those controlled  
9 substances listed in Schedules III, IV, and V of Article 2 of  
10 Chapter 2 of Title 20 in accordance with rules adopted by the  
11 board and any protocols, formularies, and medical regimens as  
12 approved by the Joint Committee of the board and the Board of  
13 Nursing for Advanced Practice Nurses for regulation of a  
14 QACSC.

15           (b) A CRNP shall not utilize his or her QACSC for  
16 the purchasing, obtaining, maintaining, or ordering of any  
17 stock supply or inventory of any controlled substance in any  
18 form.

19           (c) A CRNP authorized to prescribe, administer, or  
20 dispense controlled substances in accordance with this article  
21 shall not prescribe, administer, or dispense any controlled  
22 substance to his or her own self, spouse, child, or parent.

23           §20-2-84.

24           The board and the joint committee of the board and  
25 the Board of Nursing for Advanced Practice Nurses may deny an  
26 application of a CRNP requesting a QACSC, deny a request for a



1 renewal of a QACSC, or initiate disciplinary action against a  
2 CRNP possessing a QACSC based on any of the following:

3 (1) Fraud or deceit in applying for, procuring, or  
4 attempting to procure a QACSC in the state.

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

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

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

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

16 (6) Excessive dispensing or prescribing of any drug  
17 to any person or patient of the CRNP or collaborating  
18 physician.

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

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

25 §20-2-85.

1 (a) Any hearing for disciplinary action against a  
2 CRNP holding a valid QACSC for violations of this article  
3 shall be before the board.

4 (b) The board may restrict, suspend, or revoke a  
5 QACSC, or to assess an administrative fine against a QACSC  
6 whenever a CRNP is guilty on the basis of substantial evidence  
7 of any of the acts or offenses enumerated in Section 20-2-84.  
8 The board may reinstate or deny reinstatement a QACSC.

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

12 (d) The board shall promptly notify the Drug  
13 Enforcement Administration of the United States Department of  
14 Justice of all orders suspending or revoking a QACSC.

15 (e) Any hearing conducted before the board shall be  
16 considered a contested case under the Alabama Administrative  
17 Procedure Act, Section 41-22-1, and shall be conducted in  
18 accordance with the requirements of that act.

19 §20-2-86.

20 (a) A CRNP adversely affected by an order of the  
21 board denying an application for a QACSC or the renewal of a  
22 QACSC may obtain judicial review thereof by filing a written  
23 petition for review with the Circuit Court of Montgomery  
24 County in accordance with Section 41-22-20.

25 (b) A CRNP adversely affected by an order of the  
26 board suspending, revoking, or restricting a QACSC, whether or  
27 not such suspension, revocation, or restriction is limited;

1 assessing an administrative fine; or denying reinstatement of  
2 a QACSC, may obtain judicial review thereof by filing a  
3 written petition for review with the Circuit Court of  
4 Montgomery County in accordance with Section 41-22-20.

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

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

22 §20-2-87.

23 (a) The board may charge and collect fees to defray  
24 expenses incurred in the registration and issuance of QACSCs  
25 and the administration of this article. The types and amounts  
26 of fees shall be established in rules adopted by the board.

1 The fees shall be retained by the board and may be expended  
2 for the general operation of the board.

3 (b) The board may require a CRNP who has been found  
4 to be in violation of Section 20-2-84 or whose application for  
5 a QACSC or its renewal or reinstatement has been denied, to  
6 pay the administrative costs, fees, and expenses of the board  
7 incurred in connection with any proceedings before the board  
8 referred to in Section 20-2-85 or in connection with any  
9 investigation of the board to determine eligibility of an  
10 applicant for a QACSC including, but not limited to, the  
11 actual costs of independent medical review and expert  
12 testimony, fees, and expenses paid to outside counsel by the  
13 board, deposition, costs, travel expenses for board staff,  
14 charges incurred for obtaining documentary evidence, and such  
15 other categories of expenses as may be prescribed in rules  
16 published by the board. Payment of any such costs, fees, or  
17 expenses ordered by the board shall be made and enforced in  
18 the same manner as an administrative fine.

19 (c) Any administrative fine assessed by the board  
20 shall be paid to the board and shall not exceed the amount of  
21 one thousand dollars (\$1,000) for each violation of any of the  
22 provisions of Section 20-2-84, or any rule or regulation  
23 promulgated by the board. Any administrative fine collected by  
24 the board may be expended for the general operation of the  
25 board.

26 §20-2-88.

1 Any member of the board, any agent, employee,  
2 consultant, or attorney of the board, any person making any  
3 report or rendering any opinion or supplying any evidence or  
4 information or offering any testimony to the board in  
5 connection with any investigation or hearing conducted by the  
6 board as authorized in this article, shall be immune from any  
7 lawsuit or legal proceeding for any conduct in the course of  
8 his or her official duties with respect to such investigations  
9 or hearings.

10 §20-2-89.

11 The board and the Board of Nursing may adopt rules  
12 necessary to carry out the intent, purposes, and provisions of  
13 this article.

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

16 "§20-2-214.

17 "The following persons or entities shall be  
18 permitted access to the information in the controlled  
19 substances database, subject to the limitations indicated  
20 below:

21 "(1) Authorized representatives of the certifying  
22 boards, provided, however, that access shall be limited to  
23 inquiries concerning the licensees of the certifying board.

24 "(2) A licensed practitioner approved by the  
25 department who has authority to prescribe, dispense, or  
26 administer controlled substances, provided, however, that such  
27 access shall be limited to information concerning ~~an assistant~~

1 to physician with a ~~Qualified Alabama Controlled Substances~~  
2 ~~Registration Certificate over whom the practitioner exercises~~  
3 ~~physician supervision and a current or prospective patient of~~  
4 ~~the practitioner. Practitioners~~ a CRNP with a Qualified  
5 Alabama Controlled Substances Registration Certificate over  
6 whom the CRNP collaborates with the physician and a current or  
7 prospective patient of the CRNP. CRNPs shall have no  
8 requirement or obligation to access or check the information  
9 in the controlled substances database prior to prescribing,  
10 dispensing, or administering medications or as part of their  
11 professional practice.

12 " (3) ~~A licensed assistant to physician approved by~~  
13 ~~the department who is authorized to prescribe, administer, or~~  
14 ~~dispense pursuant to a Qualified Alabama Controlled Substances~~  
15 ~~Registration Certificate; provided, however, that such access~~  
16 ~~shall be limited to information concerning a current or~~  
17 ~~prospective patient of the assistant to physician. A licensed~~  
18 CRNP approved by the department who is authorized to  
19 prescribe, administer, or dispense pursuant to a Qualified  
20 Alabama Controlled Substances Registration Certificate;  
21 provided, however, that such access shall be limited to  
22 information concerning a current or prospective patient of the  
23 CRNP.

24 " (4) A licensed pharmacist approved by the  
25 department, provided, however, that such access is limited to  
26 information related to the patient or prescribing practitioner  
27 designated on a controlled substance prescription that a

1 pharmacist has been asked to fill. Pharmacists shall have no  
2 requirement or obligation to access or check the information  
3 in the controlled substances database prior to dispensing or  
4 administering medications or as part of their professional  
5 practices.

6 "(5) State and local law enforcement authorities as  
7 authorized under Section 20-2-91, and federal law enforcement  
8 authorities authorized to access prescription information upon  
9 application to the department accompanied by an affidavit  
10 stating probable cause for the use of the requested  
11 information.

12 "(6) Employees of the department and consultants  
13 engaged by the department for operational and review purposes.

14 ~~"(7) The prescription drug monitoring program of any  
15 of the other states or territories of the United States, if  
16 recognized by the Alliance for Prescription Drug Monitoring  
17 Programs under procedures developed by the United States  
18 Department of Justice or the Integrated Justice Information  
19 Systems Institute or successor entity subject to or consistent  
20 with limitations for access prescribed by this chapter for the  
21 Alabama Prescription Drug Monitoring Program.~~

22 "§20-2-217.

23 "(a) There is hereby assessed a surcharge in the  
24 amount of ten dollars (\$10) per year on the controlled  
25 substance registration certificate of each licensed medical,  
26 nursing, dental, podiatric, optometric, and veterinary  
27 medicine practitioner authorized to prescribe or dispense

1 controlled substances and on the Qualified Alabama Controlled  
2 Substances Registration Certificate (QACSC) of each ~~licensed~~  
3 ~~assistant to physician~~ CRNP. This surcharge shall be effective  
4 for every ~~practitioner~~ certificate or QACSC and every  
5 ~~Qualified Alabama Controlled Substances Registration~~  
6 ~~Certificate~~ issued or renewed on or after August 1, 2004,  
7 shall be in addition to any other fees collected by the  
8 certifying boards, and shall be collected by each of the  
9 certifying boards and remitted to the department at such times  
10 and in such manner as designated in the regulations of the  
11 department. The proceeds of the surcharge assessed herein  
12 shall be used exclusively for the development, implementation,  
13 operation, and maintenance of the controlled substances  
14 prescription database.

15 "(b) At the end of the first fiscal year after the  
16 controlled substances database becomes operational, and at the  
17 end of each succeeding fiscal year thereafter, the State  
18 Health Officer shall determine the actual operating costs for  
19 the database, to include an allocation of costs for the  
20 services of employees of the department. If, at the end of the  
21 fiscal year, the State Health Officer determines that the  
22 funds received by the department for operation of the database  
23 exceed the operational costs incurred by at least twenty-five  
24 thousand dollars (\$25,000), then the department shall refund a  
25 portion of such excess to the certifying boards which made  
26 payments to the department under this section in an amount  
27 proportional to the boards' payment; provided, however, that



1       no payment of less than five thousand dollars (\$5,000) to a  
2       certifying board shall be made."

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