

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
116TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
BUSINESS LEGISLATION

MAY 1994

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**ONE HUNDRED AND SIXTEENTH LEGISLATURE  
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE  
BILL SUMMARIES**

**MAY 1994**

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

The committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

*PUBLIC XXX*

*P&S XXX*

*RESOLVE XXX*

*CON RES XXX*

*EMERGENCY*

*ONTP*

*INDEF PP*

*FAILED ENACTMENT*

*FAILED EMERGENCY ENACTMENT*

*FAILED MANDATE ENACTMENT*

*DIED BETWEEN BODIES*

*CONF CMTE UNABLE TO AGREE*

*VETO SUSTAINED*

*UNSIGNED*

*DIED ON ADJOURNMENT*

*Chapter # of enacted Public Law*

*Chapter # of enacted Private & Special Law*

*Chapter # of enacted Resolve*

*Chapter # of Constitutional Resolution passed by both Houses*

*Enacted law takes effect sooner than 90 days*

*Ought Not to Pass report accepted*

*Bill Indefinitely Postponed*

*Bill failed to get majority vote*

*Emergency bill failed to get 2/3 vote*

*Bill imposing local mandate failed to get 2/3 vote*

*House & Senate disagree; bill died*

*Committee of Conference unable to agree; bill died*

*Legislature failed to override Governor's Veto*

*Not signed by Governor within 10 days*

*Action incomplete when session ended; bill died*

These summaries were prepared by the analyst or analysts assigned to the committee. If you have any suggestions or comments on the summaries, please let us know.

5581LHS

not be a partial substitute for them. This letter was later revised eliminating these questions and as a result answers to them were never received.

LD 1151, which was carried over, again refers to restraint of trade or practice restrictions in the practice of optometry. The following are the restraint of trade practices being eliminated and those being left.

| <u>Prohibition</u>  | <u>Title 32</u>      | <u>Eliminated<br/>by LD 1151</u> |
|---|----------------------|----------------------------------|
| 1. Prohibits practice on premises where non-optometry goods are sold (Lot of room for interpretation) | §2431, sub-§2, ¶J    | X                                |
| 2. Prohibits practice under name other than that of licensee  | §2431-A, sub-§2, ¶K  |                                  |
| 3. Limits branch offices to 2   | §2431-A, sub-§2, ¶N  |                                  |
| 4. Prohibits fee splitting  | §2431-A, sub-§2, ¶P  |                                  |
| 5. Prohibits partnership with non-optometrist   | §2434, sub-§1, §2435 |                                  |
| 6. Prohibits leasing office space from opticians  | §2434, sub-§4        | X                                |
| 7. Prohibits encouraging optometry services to be promoted as part of a commercial establishment      | §2434, sub-§4        | X                                |
| 8. Prohibits employment by unlicensed persons   | §2434, sub-§4, §2435 | §2434, sub-§4                    |

This bill is similar to LD 1866 of 2 years ago, except that the latter also removed the prohibition against fee splitting. The bill also enacts a provision authorizing contracts for the practice of optometry in or near the premises of an optical shop or commercial establishment.

**LD 1185**

**An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing**

VETO SUSTAINED

**SPONSOR(S)**  
MCCORMICK

**COMMITTEE REPORT**  
OTP-AM MAJ  
ONTP MIN

**AMENDMENTS ADOPTED**  
S-650

## **SUMMARY**

In current law, a nurse who has completed an approved education program is allowed to make medical diagnoses and prescribe therapeutic measures when delegated by a physician.

This bill eliminates the above current provisions and creates the category of advanced professional nursing. It is defined as the practice of professional nursing within the scope of advanced professional nursing as defined by the State Board of Nursing. The category includes:

1. Diagnosis, treatment or correction of common health problems, which are not defined; and
2. Collaboration with other health professionals. Collaboration is not defined.

COMMITTEE AMENDMENT "A" (S-454) adds the following provisions to the bill:

1. Effective January 1, 1995, creates the category of advanced registered nurse practitioner, which includes nurse midwives and nurse anesthetists. These are nurses who have been educated in advanced nursing, including a preceptorship in their specialty area, are currently certified by a national body and who may perform diagnosis and treatment when delegated by a physician. This allowance for extended practice under delegation is similar to current law.

Nurses who additionally have a master's degree, or are midwives or obstetric and gynecologic nurses who have completed a formal certification program, may perform diagnosis or treatment when under the supervision of a physician or when employed in a clinic or hospital with a medical director.

Finally, nurses who, in addition to the above, have 3 years' experience as advanced registered nurse practitioners under the terms of the previous paragraph, or its board-determined equivalent, may perform diagnosis and treatment in collaboration with physicians. The amendment provides a definition of collaboration. It does not require a collaborative agreement;

2. Creates the Joint Practice Council on Nurse Practitioners, a 7-person advisory group made up of members from the State Board of Nursing, the Board of Registration in Medicine, the Board of Osteopathic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy;
3. Requires that the council make recommendations concerning this Act by November 1, 1994 to the Joint Standing Committee on Business Legislation; and
4. Because the original bill alters the existing relationship between physicians and nurses in advanced practice, moving from a supervisory relationship to a collaborative one, this amendment includes a provision limiting the vicarious liability of physicians to instances in which the physician has agreed to assume liability or in which liability arises out of an employment relationship, while retaining the physician's direct liability for negligent supervision.

There were 13 floor amendments to this bill (Senate A-D, House A-H and Committee of Conference).

The majority of these amendments (Senate A, B, D, House A, F, G, H, Conference Committee) dealt in some fashion with the following nine issues. The letters following the issues are the amendments.

1. Elimination of nurse anesthetists from the bill. - All
2. Requiring that the Joint Practice Council study the issue of nurse anesthetists - All
3. Requiring that the Nursing Board set practice parameters for nurse anesthetists. - All except H-A
4. Eliminating clinics or hospitals as acceptable supervisory agencies for nurse practitioners. - H-A, H-G

5. Requiring that collaborating nurse practitioners notify their patients. – All except S–A, S–B
6. Requiring that collaborating practitioners have a written agreement with at least 1 physician. – All except S–A, S–B, H–A
7. Immunity from suit for the physician unless negligent in direct practice or in the direction or advice provided when that direction is memorialized in writing. – All except S–B, H–F, Com. Conf.
8. Protection from civil liability for the physician unless negligent in direct practice or in the direction or advice provided. – S–B
9. Protection from civil liability for the physician unless negligent in direct practice or in the direction or advice provided when that direction is memorialized in writing. – H–F, Com. Conf.

The following amendments were more limited in their intent.

House "B" eliminates clinics and hospitals as acceptable supervisory agents.

House "C" eliminates the nurse practitioner members of the nursing board.

House "D" eliminates the eligibility of nurse midwives and nurse ob/gyns who do not possess a masters degree and of clinics and hospitals as supervisory agents.

House "E" eliminates the 3 levels of nurse practitioners and makes all RN's possessing the 3 basic qualifications eligible to be nurse practitioners with standards and requirements as set by rule. It adds to the definition of collaboration a requirement for medical direction as mutually developed and agreed to with a physician or physicians.

Senate "C" is the same as House "E".

The bill was vetoed because of concern over the liability issue.

**LD 1312      An Act to Regulate Nonsewered Toilet Systems      ONTP**

|                   |                         |                           |
|-------------------|-------------------------|---------------------------|
| <b>SPONSOR(S)</b> | <b>COMMITTEE REPORT</b> | <b>AMENDMENTS ADOPTED</b> |
| LIBBY J L         | ONTP                    |                           |

**SUMMARY**

This bill establishes construction standards, required numbers and servicing requirements for portable toilets on work sites and at special events.

**LD 1379      An Act to Grant Conditional Licensure to Social Work Graduates from Schools That Are Awaiting Accreditation      ONTP**

|                   |                         |                           |
|-------------------|-------------------------|---------------------------|
| <b>SPONSOR(S)</b> | <b>COMMITTEE REPORT</b> | <b>AMENDMENTS ADOPTED</b> |
| DORE              | ONTP                    |                           |

**SUMMARY**

This bill amends the requirements for a licensed master social worker's license so that it allows a person who received a masters or doctoral degree from a school that is not accredited but is applying to be accredited to receive a conditional license until the school has been accredited. If the school is not accredited, the license is revoked.