

# MAINE STATE LEGISLATURE

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32 M.R.S.A. § 2102  
32-) M.R.S.A. § 3270-A

*Physician's assistants + registered nurses  
Pharmacy Board, 11/10/76  
(last of year)*

JOSEPH E. BRENNAN  
ATTORNEY GENERAL



RICHARD S. COHEN  
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DEPUTY ATTORNEYS GENERAL

STATE OF MAINE

DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

December 15, 1976

Richard O. Campbell, Secretary  
Commission of Pharmacy  
Northwood Road  
Lewiston, Maine 04240

Dear Mr. Campbell:

I am writing in response to your letter of November 2, 1976, to this Office. You have attached thereto a copy of a letter dated September 25, 1976 from Roland Courtemanche to Mr. Richard Cannon, Member of the Commission of Pharmacy, and a copy of a letter to you from Dr. Richard Swengel, dated October 28, 1976. Based upon the aforementioned letters, it is my understanding that an opinion is requested by the Commission of Pharmacy regarding whether or not a physician's assistant or a "nurse practitioner" (or a "family nurse practitioner" or a "pediatric nurse associate") may write prescriptions.

It is our view that these questions should, in the first instance, be formally addressed to the Board of Registration in Medicine, to the State Board of Nursing, and to the Board of Osteopathic Examination and Registration.

32 M.R.S.A. § 3270-A, among other statutory sections, deals with physicians' assistants. Pursuant to its statutory authority, the Board of Registration in Medicine has duly adopted "Rules and Regulations for Physician's Assistants." For example, and not by way of limitation, Section VC of said Rules and Regulations states that "[t]he supervising physician shall be responsible for all medical activities of the assistant(s)." Section VE states that "[t]he supervising physician shall personally sign all prescriptions which require the personal signature of a physician." Section VIC provides that "[i]ndependent health care by a physician's assistant shall not be permitted." An administrative agency has the authority to interpret its statute and to interpret its own rules and regulations; and these interpretations, while not absolutely controlling, are entitled to great weight by the courts. See e.g., 2 Am. Jur. 2nd Administrative Law §§ 306, 307. Accordingly we believe that it is most appropriate and proper that the Board of Registration in Medicine be provided with the opportunity to

Richard O. Campbell  
December 15, 1976  
Page 2

answer those technical medical questions, and that the office of the Attorney General not encroach upon the function of the Board. This Office, of course, will be pleased to provide the Medical Board assistance with regard to these questions, should that be requested.

Similar reasoning applies with regard to the question pertaining to nurse practitioners. For example, 32 M.R.S.A. § 2102 (2) states in part that:

"The practice of 'Professional Nursing' means the performance for compensation of any of the services which necessitate the specialized knowledge, judgment and skill required for the application of nursing as based upon principles of biological, physical and social sciences in the: . . .

"E. Diagnosis of illness or prescription of therapeutic or corrective measures when such services are delegated by a physician to a registered nurse who has completed the necessary additional educational program required for the proper performance of such services. Such programs shall be approved by the board [of Nursing] and the Board of Registration in Medicine and the Board of Osteopathic Examination and Registration."

Pursuant thereto, "Standards for Nurse Associate Programs" have been adopted by the Board of Nursing, Board of Registration<sup>1</sup> in Medicine, and Board of Osteopathic Examination and Registration. Thus, as set forth more fully above, it is most appropriate and proper that

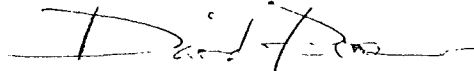
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<sup>1</sup>/ Section I, Introduction, thereof, provides in part that "[o]ver a period of many years, medical and nursing care have been changing. Many acts once performed only by a physician have long been accepted as within the scope of nursing practice. . . . Such changes came about not by an amendment to law, but through mutual agreement of the medical and nursing professions. In more recent years, as the delivery of health care has become complex and numerous new kinds of health workers have emerged, even more dramatic changes have occurred in the traditional roles of physicians and nurses. . . ."

Richard O. Campbell  
December 15, 1976  
Page 3

the Nursing, Medical and Osteopathic Boards have the opportunity to answer the question. Again, if requested by the Boards, we stand ready to provide our assistance.

Very truly yours,

A handwritten signature in dark ink, appearing to read "David Roseman", written over a horizontal line.

DAVID ROSEMAN  
Assistant Attorney General

DR:jg

cc: Board of Registration in Medicine  
State Board of Nursing  
Board of Osteopathic Examination and Registration