## MAINE STATE LEGISLATURE

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L.D. 1185

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| 4  | DATE: 4/6/94 (Filing No. H-1064)   |  |  |  |  |  |  |  |  |  |  |  |  |
| б  | Reproduced and distributed under the direction of the Clerk of the House.  |  |  |  |  |  |  |  |  |  |  |  |  |
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| 10 | STATE OF MAINE HOUSE OF REPRESENTATIVES 116TH LEGISLATURE  |  |  |  |  |  |  |  |  |  |  |  |  |
| 12 | SECOND REGULAR SESSION   |  |  |  |  |  |  |  |  |  |  |  |  |
| 14 | HOUSE AMENDMENT "G" to COMMITTEE AMENDMENT "A" to S.P. 390,  |  |  |  |  |  |  |  |  |  |  |  |  |
| 16 | L.D. 1185, Bill, "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"  |  |  |  |  |  |  |  |  |  |  |  |  |
| 18 | Amend the amendment in section 11 in that part designated  |  |  |  |  |  |  |  |  |  |  |  |  |
| 20 | " <u>\$2232.</u> " in subsection 2 by striking out the last 3 lines (page 4, lines 11 to 13 in amendment) and inserting in their place the   |  |  |  |  |  |  |  |  |  |  |  |  |
| 22 | following: 'a physician.'  |  |  |  |  |  |  |  |  |  |  |  |  |
| 24 | Further amend the amendment in section 11 in that part designated "\$2232." in subsection 3 in the 2nd line (page 4, line  |  |  |  |  |  |  |  |  |  |  |  |  |
| 26 | 16 in amendment) by inserting after the following: "practitioner" the following: ', other than a nurse anesthetist,'   |  |  |  |  |  |  |  |  |  |  |  |  |
| 28 |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 30 | Further amend the amendment in section 11 in that part designated "§2233." in the first paragraph in the 2nd line (page 4, line 25 in amendment) by inserting after the following: |  |  |  |  |  |  |  |  |  |  |  |  |
| 32 | "practitioner" the following: ', other than a nurse anesthetist,'  |  |  |  |  |  |  |  |  |  |  |  |  |
| 34 | Further amend the amendment in section ll in that part designated "§2233." in subsection l in the last line (page 4,   |  |  |  |  |  |  |  |  |  |  |  |  |
| 36 | line 32 in amendment) by striking out the following: "and"   |  |  |  |  |  |  |  |  |  |  |  |  |
| 38 | Further amend the amendment in section 11 in that part designated " <u>\$2233.</u> " in subsection 2 in the last line (page 4,   |  |  |  |  |  |  |  |  |  |  |  |  |
| 40 | line 37 in amendment) by striking out the following: "practice." and inserting in its place the following: 'practice; and'   |  |  |  |  |  |  |  |  |  |  |  |  |
| 42 |  |  |  |  |  |  |  |  |  |  |  |  |  |
|    | Further amend the amendment in section 11 in that part   |  |  |  |  |  |  |  |  |  |  |  |  |

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designated "\$2233." by inserting after subsection 2 the following:

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| HOUSE | AMENDMENT | " <i>G</i> " | tò | COMMITTEE | AMENDMENT | "A" | to | S.P. | 390, | L.D. |
| 1185  |           |              |    |           |           |     |    | •    |      |      |

- '3. Agreement. Has a written collaborative agreement with at least one physician. A collaborative agreement must define the respective duties and responsibilities of the parties, including the method or methods to be used by the parties in order to memorialize exchanges of information between them.'
- Further amend the amendment in section 11 by striking out all of that part designated "\$2234." (page 4, lines 39 to 51 and page 5, lines 2 to 4 in amendment) and inserting in its place the following:

### '<u>§2234. Liability</u>

The physician functioning within a collaborative relationship with an advanced registered nurse practitioner is immune from suit for damages unless:

- 1. Negligence; treatment. The physician was negligent in rendering medical treatment in person directly to the patient; or
- 22 2. Negligence; direction or advice. The physician was negligent in the direction or advice offered to the collaborating 24 advanced registered nurse practitioner based upon the information provided to the physician. Unless an advanced registered nurse 26 practitioner and a collaborating physician have a written collaborative agreement, the information provided by the advanced registered nurse practitioner and the consultation advice by the 28 collaborating physician must be memorialized in writing or other 30 electronic means and the physician's liability is limited solely to the memorialized response by the physician to the memorialized 32 information received.
- This section does not apply if the advanced registered nurse practitioner is an employee of the collaborating physician seeking to avoid immunity under this section.

#### §2235. Practice parameters for nurse anesthetists

The practice parameters of a nurse anesthetist must be set forth by rules adopted by the board and, to the extent practicable, the initial rules must limit the practice parameters of a nurse anesthetist in such manner as set forth in applicable rules adopted by the board before the effective date of this section.'

Further amend the amendment in section 11 by inserting at the end the following:

#### '\$2239. Notice; disclosure

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|  |     | An    | advance   | d register | ed nurs | e pract | itioner | func | tioning | with | nin |
|--|-----|-------|-----------|------------|---------|---------|---------|------|---------|------|-----|
|  | a   |       |           | relations  |         | _       |         |      | _       |      |     |
|  | tha | at nu | rse pract | titioner's | patient | ts. '   |         |      |         |      |     |

Further amend the amendment in section 13 in subsection 4 in the last line (page 7, line 11 in amendment) by striking out the following: "and"

10 Further amend the amendment in section 13 in subsection 5 in the last line (page 7, line 16 in amendment) by striking out the following: "practitioners." and inserting in its place the following: 'practitioners; and'

Further amend the amendment in section 13 by inserting after subsection 5 the following:

'6. Whether nurse anesthetists should be permitted to practice at the collaborative level and, if so, what additional requirements should be imposed.'

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#### STATEMENT OF FACT

This amendment makes 4 substantive changes to the committee amendment as follows.

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1. This amendment requires an advanced registered nurse practitioner to fulfill the requirement of supervision under the supervision of a physician.

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2. It deletes nurse anesthetists from the portion of the amendment permitting collaborative practice. The Joint Practice Council on Nurse Practitioners is given authority to review whether nurse anesthetists should be permitted to practice at the collaborative level and, if so, what additional requirements should be imposed.

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3. It requires nurse practitioners practicing at the collaborative level to have a written agreement with at least one physician.

44 4. It grants liability protection to physicians collaborating on an ad-hoc basis without a written agreement. It is the intent of that provision to provide immunity to physicians collaborating under these circumstances with the physician's liability limited solely to the physician's response to any memorialized information received.

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# HOUSE AMENDMENT

a. 48-

HOUSE AMENDMENT "6" to COMMITTEE AMENDMENT "A" to S.P. 390, L.D. 1185

5. It requires the nurse practitioner functioning within a collaborative relationship to provide notice of that fact to the nurse practitioner's patients.

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SPONSORED BY:

(Representative WINN)

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TOWN: Glenburn

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