

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: March 15, 1994

(Filing No. S-454)

BUSINESS LEGISLATION

Reported by: Majority Report

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 390, L.D. 1185, Bill, "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"

Amend the bill by inserting after the enacting clause the following:

'Sec. 1. 3 MRSA §927, sub-§4, ¶B, as amended by PL 1993, c. 92, §2, is further amended to read:

B. Independent agency:

(6) State Planning Office; and

(8) Joint Practice Council on Nurse Practitioners.

Sec. 2. 5 MRSA §12004-I, sub-§72-C is enacted to read:

<u>72-C.</u>	<u>Joint</u>	<u>Discretion</u>	<u>32 MRSA</u>
<u>Occupations:</u>	<u>Practice</u>	<u>of Appoint-</u>	<u>§2265'</u>
<u>Registered</u>	<u>Council on</u>	<u>ing Agency</u>	
<u>Nurse</u>	<u>Nurse</u>		
<u>Practitioners</u>	<u>Practitioners</u>		

Further amend the bill by striking out all of section 2.

Further amend the bill by striking out all of section 4 and inserting in its place the following:

COMMITTEE AMENDMENT

R. O. S.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

'Sec. 4. 32 MRSA §2102, sub-§§10 and 11 are enacted to read:

10. Advanced registered nurse practitioner. "Advanced registered nurse practitioner" means a registered nurse qualified, as specified in chapter 31, subchapter III-A, to assume the expanded role described in chapter 31, subchapter III-A in providing health care services. "Advanced registered nurse practitioner" includes nurse practitioners, nurse midwives and nurse anesthetists qualified as specified in section 2231.

11. Collaboration. "Collaboration" means the process in which physicians and advanced registered nurse practitioners jointly contribute to the health care of patients with each collaborator performing those actions that the collaborator is licensed to perform or approved to perform by the collaborator's licensing board.'

Further amend the bill by striking out all of section 7 and inserting in its place the following:

'Sec. 7. 32 MRSA §2152, sub-§1, as repealed and replaced by PL 1985, c. 724, §13, is amended to read:

1. **Professional nurses.** Five professional nurses, each of whom:

A. Must be a graduate of a state-approved educational program in professional nursing;

B. Holds a current Maine license to practice nursing; and

C. Has at least 3 years' experience in active practice immediately preceding appointment.

A minimum of 2 professional nurses must be active in an approved educational program in nursing. A minimum of 2 professional nurses must be active in nursing service. At least one professional nurse must also be approved by the board as an advanced registered nurse practitioner under section 2231;'

Further amend the bill in section 8 by striking out all of subsection 5-A and inserting in its place the following:

'5-A. Advanced professional nursing specialty. Determine the specialty scope of an advanced registered nurse practitioner, consistent with the qualifications of section 2231;'

Further amend the bill by striking out all of section 9.

Further amend the bill in section 10 in the first paragraph in the first line (page 4, line 42 in L.D.) by striking out the following: "a nurse in advance practice" and inserting in its place the following: 'an advanced registered nurse practitioner'

Further amend the bill in section 10 in the first paragraph in the 5th line (page 4, line 46 in L.D.) by striking out the following: "the nurse in advance practice" and inserting in its place the following: 'an advanced registered nurse practitioner'

Further amend the bill by inserting after section 10 the following:

'Sec. 11. 32 MRSA c. 31, sub-c. III-A is enacted to read:

Subchapter III-A

Advanced Registered Nurse Practitioners

§2231. Advanced practice qualifications

A registered professional nurse applying for approval to practice as an advanced registered nurse practitioner must submit to the board written evidence, verified by oath, that the applicant:

1. Current license. Holds a current license to practice as a registered professional nurse in the State;

2. Advanced education. Has completed a formal education program in advanced nursing that must include a preceptorship in the specialty area of practice that is acceptable to the board; and

3. National certification. Holds a current certification credential for advanced practice nursing from a national certifying body whose certification program is acceptable to the board.

After review and verification that the applicant meets the requirements of this section, the board shall issue to the applicant an approval to practice as an advanced registered nurse practitioner. The board shall adopt rules defining the appropriate standards of practice and requirements for approval to practice under this section.

§2232. Practice parameters

An advanced registered nurse practitioner may perform diagnosis, treatment and prescription or administration of drugs,

1
2 therapeutic or corrective devices under the following practice parameters.

4 1. Delegation. An advanced registered nurse practitioner may perform these services when the services are delegated by a physician.

8 2. Supervision. An advanced registered nurse practitioner who satisfies the education criteria established in section 2233, subsection 2 may perform these services under the supervision of a physician, or the advanced registered nurse practitioner must be employed by a clinic or hospital that has a medical director who is a physician.

14 3. Collaboration. An advanced registered nurse practitioner who is approved by the board under section 2233 may perform these services in collaboration with physicians. An advanced registered nurse practitioner who is collaborating with a physician may also collaborate with other health care professionals.

22 **§2233. Practice in collaboration**

24 The board shall approve an advanced registered nurse practitioner to practice in collaboration upon the applicant's submitting to the board written evidence, verified by oath, that the applicant:

28 1. Experience. Has completed at least 3 years, or the equivalent as determined by the board, of practice as an advanced registered nurse practitioner under the practice parameters in section 2232, subsection 2; and

34 2. Education. Has completed a formal education certificate program as a nurse midwife or an obstetric and gynecologic nurse practitioner or has completed a formal master's level education program in advanced nursing in the specialty area of practice.

38 **§2234. Liability**

40 A physician functioning within a collaborative relationship with an advanced registered nurse practitioner is not civilly liable for the negligence of that nurse practitioner or for failing to supervise the nurse practitioner, unless:

46 1. Negligence. The physician was negligent in the direction or advice offered; or

48 2. Agreement. The physician has assumed responsibility for the actions of the nurse practitioner through a mutually agreed to collaborative agreement.

2 The immunity provided by this section does not apply if the
4 nurse practitioner is an employee of the collaborating physician
 seeking immunity under this section.

6 **§2235. Nomenclature**

8 A person who qualifies under section 2231 and whose
10 application for advanced registered nurse practitioner
12 designation has been approved by the board is designated as an
14 advanced registered nurse practitioner. The abbreviation for the
16 title of advanced registered nurse practitioner is A.R.N.P. The
18 nurse may use the designation A.R.N.P. and the title or
 abbreviation designated by the appropriate national certifying
 body. Initials or abbreviations other than A.R.N.P. may not
 legally denote advanced registered nurse practitioner. A person
 who is not an advanced registered nurse practitioner may not
 assume the title or use the abbreviations.

20 **§2236. Temporary approval to practice as an advanced registered**
22 **nurse practitioner**

24 Temporary approval to practice as an advanced registered
 nurse practitioner may be granted:

26 1. Reciprocity. For a period of 90 days to an applicant
28 who is currently approved to practice as an advanced registered
 nurse practitioner in another jurisdiction with requirements at
 least equivalent to those of this State; or

30 2. Awaiting certification. For a period of 12 months to an
32 applicant who meets the requirements of section 2231, subsections
34 1 and 2.

36 **§2237. Termination of advanced registered nurse practitioner**
 designation

38 The approval to practice as an advanced registered nurse
40 practitioner may be terminated by the board when the practitioner
 no longer holds a current certification credential.

42 **§2238. Prescriptive authority**

44 When approved by the board, an advanced registered nurse
46 practitioner, except a nurse anesthetist, may prescribe drugs and
48 devices. By December 1, 1994, the board shall issue rules
 governing the prescription of drugs. In adopting the rules, the
 board shall seek comment from the Joint Practice Council on Nurse
 Practitioners pursuant to section 2265.

50 Sec. 12. 32 MRSA c. 31, sub-c. VI is enacted to read:

R. of S.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Subchapter VI

Joint Practice Council on Nurse Practitioners

§2265. Joint Practice Council on Nurse Practitioners

1. Membership. The Joint Practice Council on Nurse Practitioners, as established by Title 5, section 12004-I, subsection 72-C consists of 7 persons, including 3 members from the State Board of Nursing, 2 members from the Board of Registration in Medicine and one member each from the Board of Osteopathic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy. Each board shall appoint its representatives. In performing their roles on the council, members must be guided by the best interests of the general public and not the interests of their own professions. Terms of appointment are at the discretion of the individual appointing board.

The State Board of Nursing shall designate one of its appointees as the first chair of the council, who shall call the first meeting of the council. The position of chair must be rotated between a State Board of Nursing member and a Board of Registration in Medicine member at intervals the council shall determine.

2. Purpose and duties. The council shall make recommendations to the appropriate boards on matters of mutual concern between the boards the members represent and on issues pertinent to the nurse practitioner formulary. The duties of the council are advisory in nature and include making recommendations for adding to or altering the list of controlled and noncontrolled substances on the advanced registered nurse practitioner formulary and formulating protocol guidelines for advanced registered nurse practitioner prescription of both controlled and noncontrolled substances.

3. Compensation. A council member may receive per diem and expenses at the discretion of the appointing board.

Sec. 13. Recommendations required. By November 1, 1994, the Joint Practice Council on Nurse Practitioners shall make recommendations regarding this Act to the Joint Standing Committee on Business Legislation with a copy to the Executive Director of the Legislative Council concerning, but not limited to, the following issues:

- 1. All aspects of the experience requirement specified in the Maine Revised Statutes, Title 32, section 2233, subsection 1;

2 2. Guidelines concerning the prescription of drugs and
4 devices by advanced registered nurse practitioners;

6 3. Actions to be taken when an advanced registered nurse
8 practitioner candidate reports an inability to obtain the
required physician collaborator;

10 4. Guidelines for a practice agreement contract between a
12 collaborating physician and an advanced registered nurse
practitioner; and

14 5. Results of a review of current rules of the Board of
16 Registration in Medicine and the Board of Osteopathic Examination
and Registration as they pertain to advanced registered nurse
practitioners.

18 The council's submission must include any legislation
20 necessary for implementing its recommendations.

22 The chair of the council shall call the first meeting of the
24 council relative to these recommendations no later than August
15, 1994.

26 Notwithstanding Title 32, section 2265, a board may not
28 change an initially appointed member prior to January 1, 1996,
unless the appointing board determines that there are
extraordinary circumstances that necessitate the change.

30 **Sec. 14. Effective date.** Sections 1 to 11 of this Act take
32 effect January 1, 1995.'

34 Further amend the bill by renumbering the sections to read
consecutively.

36 Further amend the bill by inserting at the end before the
38 statement of fact the following:

40 **FISCAL NOTE**

42 The State Board of Nursing will incur some minor additional
44 costs to administer certain requirements pertaining to the
practice of advanced nursing and to adopt certain rules regarding
advanced nursing. These costs can be absorbed within the board's
46 existing budgeted resources.

48 The State Board of Nursing, the Board of Registration in
50 Medicine, the Board of Osteopathic Examination and Registration,
and the Board of Commissioners of the Profession of Pharmacy will

P. 8 of 8

incur some minor additional costs to pay per diem and expenses, at their discretion, for respective board members who have been appointed to the Joint Practice Council on Nurse Practitioners. These costs can be absorbed within the boards' existing budgeted resources.'

STATEMENT OF FACT

This is the majority report of the Joint Standing Committee on Business Legislation.

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.

The original bill 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.

This amendment 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 under the supervision of a physician. This allowance for extended practice under supervision 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, or its board-determined equivalent, may perform diagnosis and treatment in collaboration with physicians. The amendment provides a

2 definition of collaboration. It does not require a collaborative
agreement;

4 2. Creates the Joint Practice Council on Nurse
Practitioners, a 7-person advisory group made up of members from
6 the State Board of Nursing, the Board of Registration in
Medicine, the Board of Osteopathic Examination and Registration
8 and the Board of Commissioners of the Profession of Pharmacy;

10 3. Requires that the council make recommendations
concerning this Act by November 1, 1994 to the Joint Standing
12 Committee on Business Legislation; and

14 4. Because the original bill alters the existing
relationship between physicians and nurses in advanced practice,
16 moving from a supervisory relationship to a collaborative one,
this amendment includes a provision limiting the vicarious
18 liability of physicians to instances in which the physician has
agreed to assume liability or in which liability arises out of an
20 employment relationship, while retaining the physician's direct
liability for negligent supervision.