

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE OF CONFERENCE 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:

CONFERENCE AMENDMENT

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

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

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

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

34 '5-A. Advanced professional nursing specialty. Determine
36 the specialty scope of an advanced registered nurse practitioner,
38 consistent with the qualifications of section 2231;'

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

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

50 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, therapeutic or corrective devices under the following practice parameters.

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

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.

3. Collaboration. An advanced registered nurse practitioner, other than a nurse anesthetist, 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.

§2233. Practice in collaboration

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

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;

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; and

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.

§2234. Liability

The physician functioning within a collaborative relationship with an advanced registered nurse practitioner may not be found civilly liable for damages unless:

1. Negligence; treatment. The physician was negligent in rendering medical treatment in person directly to the patient; or

2. Negligence; direction or advice. The physician was negligent in the direction or advice offered to the collaborating advanced registered nurse practitioner based upon the information provided to the physician. Unless an advanced registered nurse 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 collaborating physician must be memorialized in writing or other electronic means and the physician's liability is limited solely to the memorialized response by the physician to the memorialized information received.

This section does not apply if the advanced registered nurse practitioner is an employee of the collaborating physician seeking to avoid liability under this section.

At any time the court may dismiss all claims against a physician to whom neither subsection 1 nor subsection 2 applies.

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§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.

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§2236. Nomenclature

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A person who qualifies under section 2231 and whose application for advanced registered nurse practitioner designation has been approved by the board is designated as an advanced registered nurse practitioner. The abbreviation for the title of advanced registered nurse practitioner is A.R.N.P. The 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.

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§2237. Temporary approval to practice as an advanced registered nurse practitioner

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

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1. Reciprocity. For a period of 90 days to an applicant 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

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

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§2238. Termination of advanced registered nurse practitioner designation

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

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§2239. Prescriptive authority

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When approved by the board, an advanced registered nurse practitioner, except a nurse anesthetist, may prescribe drugs and 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.

§2240. Notice; disclosure

An advanced registered nurse practitioner functioning within a collaborative relationship shall provide notice of that fact to that nurse practitioner's patients.

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

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.

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

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

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

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

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

17 4. Guidelines for a practice agreement contract between a
18 collaborating physician and an advanced registered nurse
19 practitioner;

20 5. Results of a review of current rules of the Board of
21 Registration in Medicine and the Board of Osteopathic Examination
22 and Registration as they pertain to advanced registered nurse
23 practitioners; and

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

27 The council's submission must include any legislation
28 necessary for implementing its recommendations.

29 The chair of the council shall call the first meeting of the
30 council relative to these recommendations no later than August
31 15, 1994.

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

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

38 Further amend the bill by renumbering the sections to read
39 consecutively.

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

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FISCAL NOTE

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

14 The State Board of Nursing, the Board of Registration in
Medicine, the Board of Osteopathic Examination and Registration
16 and the Board of Commissioners of the Profession of Pharmacy will
incur some minor additional costs to pay per diem and expenses,
18 at their discretion, for respective board members who have been
appointed to the Joint Practice Council on Nurse Practitioners.
20 These costs can be absorbed within the boards' existing budgeted
resources.'

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STATEMENT OF FACT

26 This is the amendment from the Committee of Conference.
This amendment incorporates Committee Amendment "A," as amended
28 by House Amendment "C" and House Amendment "F" thereto, except
that this amendment specifies that at any time a court may
30 dismiss all claims against a physician to whom neither of the
provisions apply concerning liability for negligence in rendering
32 medical treatment or in direction or advice, found in the
amendment at Maine Revised Statutes, Title 32, section 2234,
34 subsections 1 and 2.