

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1185

S.P. 390

In Senate, April 5, 1993

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

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.
Cosponsored by Senators: BRANNIGAN of Cumberland, BUSTIN of Kennebec,
DUTREMBLE of York, HANDY of Androscoggin, HARRIMAN of Cumberland, PARADIS of
Aroostook, TITCOMB of Cumberland, Representatives: BARTH of Bethel, BOWERS of
Washington, BRENNAN of Portland, FARNSWORTH of Hallowell, GEAN of Alfred, HOLT
of Bath, MARTIN of Eagle Lake, MITCHELL of Vassalboro, OLIVER of Portland, PINETTE
of Fort Kent, ROWE of Portland, RYDELL of Brunswick, TRACY of Rome, TREAT of
Gardiner.

Be it enacted by the People of the State of Maine as follows:

2
4 Sec. 1. 32 MRSA §2101, as amended by PL 1985, c. 724, §1, is further amended to read:

6 **§2101. Purpose**

8 In order to safeguard the life and health of the people in
10 this State, any person who for compensation practices or offers
12 to practice professional nursing, advanced professional nursing
14 or practical nursing in this State ~~shall hereafter be required to~~
16 must submit evidence that ~~he or she~~ the person is qualified ~~so~~
18 to practice, and shall must be licensed and approved as provided.
20 It ~~shall be~~ is unlawful for any person not licensed under this
chapter to practice or to offer to practice professional,
advanced professional or practical nursing in this State; or to
use any sign, card or device or in any way hold oneself out to
the public to indicate that ~~such~~ the person is a professional
registered nurse, nurse in advanced practice or a licensed
practical nurse.

22 Sec. 2. 32 MRSA §2102, sub-§2, ¶A, as amended by PL 1991, c.
24 731, §1, is further amended to read:

26 A. Diagnosis and treatment of human responses to actual or
28 potential physical and emotional health problems, through
30 such services as case finding, health teaching, health
32 counseling and provision of care supportive to or
34 restorative of life and well-being and execution of the
medical regimen as prescribed by a licensed physician, nurse
in advanced practice, podiatrist or dentist or otherwise
legally authorized person acting under the delegated
authority of a physician, nurse in advanced practice,
podiatrist or dentist:

36 (1) "Diagnosis" in the context of nursing practice
38 means that identification of and discrimination between
40 physical and psychosocial signs and symptoms essential
42 to effective execution and management of the nursing
regimen. This diagnostic privilege is distinct from
medical diagnosis;

44 (2) "Human responses" means those signs, symptoms and
46 processes that denote the individual's health needs or
48 reaction to an actual or potential health problem; and

50 (3) "Treatment" means selection and performance of
those therapeutic measures essential to the effective
management and execution of the nursing regimen;

2 **Sec. 3. 32 MRSA §2102, sub-§2, ¶B,** as amended by PL 1985, c.
819, Pt. A, §§27 and 28, is repealed.

4 **Sec. 4. 32 MRSA §2102, sub-§§2-A and 5-A** are enacted to read:

6 **2-A. Advanced professional nursing.** "Advanced professional
7 nursing" means the practice of professional nursing, within the
8 generally recognized scope of advanced professional nursing as
9 defined by the board consistent with professionally recognized
10 preparation and educational standards approved by the board.
11 "Advanced professional nursing" includes:

12 A. The maintenance and promotion of health and the
13 prevention of disease;

14 B. The diagnosis, treatment or correction of, or the
15 consultation or referral for common health problems;

16 C. The prescription or administration of prescription
17 drugs, including local anesthesia and prescription devices,
18 within the scope of practice of a nurse in advanced
19 practice; and

20 D. Collaboration with other licensed health professionals,
21 such as nurses, pharmacists, podiatrists, dentists and
22 physicians.

23 **5-A. Nurse in advanced practice.** "Nurse in advanced
24 practice" means a person who is currently licensed as a
25 professional nurse under this chapter and approved to practice
26 advanced professional nursing as defined in subsection 2-A. The
27 specialty abbreviations for nurses in advanced practice must be
28 approved by the board.

29 **Sec. 5. 32 MRSA §2105-A, sub-§2, ¶E,** as enacted by PL 1983, c.
30 378, §21, is amended to read:

31 E. Incompetence in the practice for which he the person is
32 licensed or approved. A licensee shall--be--deemed is
33 determined incompetent in the practice if the licensee has:

34 (1) Engaged in conduct which that evidences a lack of
35 ability or fitness to discharge the duty owed by the
36 licensee to a client or patient or the general public;
37 or

38 (2) Engaged in conduct which that evidences a lack of
39 knowledge, or inability to apply principles or skills

2 to carry out the practice for which he the person is
licensed or approved;

4 **Sec. 6. 32 MRSA §2105-A, sub-§2, ¶¶F and G, as enacted by PL**
1983, c. 378, §21, are amended to read:

6
8 **F. Unprofessional Engaging in unprofessional conduct.** A
licensee ~~shall-be-deemed is determined~~ to have engaged in
unprofessional conduct if he that licensee violates any
10 standard of professional behavior which that has been
established in the practice for which the licensee is
12 licensed or approved;

14 **G.** Subject to the limitations of Title 5, chapter 341,
conviction of a crime which that involves dishonesty or
16 false statement or which that relates directly to the
practice for which the licensee is licensed or approved, or
18 conviction of any crime for which incarceration for one year
or more may be imposed;

20
22 **Sec. 7. 32 MRSA §2151, as amended by PL 1989, c. 503, Pt. B,**
§133, is further amended to read:

24 **§2151. Appointment; term; removal**

26 A The State Board of Nursing, as established by Title 5,
section 12004-A, subsection 25, ~~shall--consist~~ consists of 9
28 members ~~who shall-be,~~ appointed by the Governor. Five members of
the board ~~shall~~ must be professional nurses. Two members ~~shall~~
30 must be licensed practical nurses. One of the nurse members of
the board must be a nurse who is currently practicing long-term
32 care nursing. One of the professional nurse members of the board
must be an approved nurse in advanced practice. Two members
34 ~~shall~~ must be representatives of the public. Except to fill
vacancies in unexpired terms, all appointments ~~shall-be~~ are for a
36 term of 5 years after ~~sueh~~ the appointment or until their
successors have been duly appointed and qualified. ~~No~~ A person
38 ~~may--be~~ is not eligible for more than one reappointment. Any
vacancy on the board ~~shall~~ must be filled for the unexpired term
40 by the appointment of another member by the Governor. Any
members of the board may be removed from office for cause by the
42 Governor.

44 **Sec. 8. 32 MRSA §2153, sub-§§5-A and 5-B are enacted to read:**

46 **5-A. Advanced professional nursing specialty.** Define the
specialty scopes of advanced professional nursing, consistent
48 with professionally recognized preparation and educational
standards;

2 5-B. Approval of national certification. Approve the use
4 of national certifying associations for nurses in advanced
 practice;

6 **Sec. 9. 32 MRSA §§2201-A and 2201-B** are enacted to read:

8 **§2201-A. Advanced practice qualifications**

10 A professional nurse applying for approval to practice as a
12 nurse in advanced practice must submit to the board written
 evidence, verified by oath, that the applicant:

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

18 2. Advanced education. Has completed an advanced education
 program in the area of specialty; and

20 3. National certification. Has been certified to practice
22 specialized and advanced nursing by a national certifying
 association approved by the board.

24 The board may adopt, pursuant to Title 5, chapter 375,
26 subchapter II, rules approving the use of national certifying
 associations for nurses in advanced practice.

28 **§2201-B. Approval**

30 After review and verification that the applicant meets the
32 requirements under section 2201-A, the board shall issue to the
 applicant an approval to practice as a nurse in advanced practice.

34 A nurse approved and licensed to practice in accordance with
36 former section 2102, subsection 2, paragraph B before the
 effective date of this section is considered approved as a nurse
 in advanced practice.

38 **Sec. 10. 32 MRSA §2206**, as amended by PL 1991, c. 153, §2, is
40 further amended by adding at the end a new paragraph to read:

42 The approval of a nurse in advanced practice under this
44 chapter is renewable at the time of that nurse's application for
46 renewal of that nurse's license to practice professional
 nursing. The renewal application must include written evidence,
 verified by oath, that the nurse in advanced practice is
 currently certified in the nurse's area of specialty.

STATEMENT OF FACT

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The purpose of this bill is to improve access to the health care delivery system in the State by promoting effective utilization of nurses in advanced practice.

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This bill clarifies the eligibility requirements and the approval process for persons who practice advanced professional nursing.

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This bill also requires that one member of the State Board of Nursing be a nurse in advanced practice.

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