

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 754

S.P. 282

In Senate, March 7, 1995

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

Reference to the Committee on Business and Economic Development suggested and
ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator BENOIT of Franklin.

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

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

B. Independent agency agencies:

(6) State Planning Office; and

(8) Joint Practice Council on Nurse Practitioners.

Sec. 2. 5 MRSA §12004-I, sub-§73-B is enacted to read:

73-B. Joint Discretion 32 MRSA
Occupations: Practice of Appoint- §2265
Registered Council on ing Agency
Nurse Nurse
Practitioners Practitioners

Sec. 3. 32 MRSA §2101, as amended by PL 1993, c. 600, Pt. A, §108, is further amended to read:

§2101. Purpose

The State Board of Nursing is the state regulatory agency charged with protection of the public health and welfare in the area of nursing service. In order to safeguard the life and health of the people in this State, an individual who for compensation practices or offers to practice professional nursing, advanced professional nursing or practical nursing in this State ~~shall~~ must submit evidence that the individual is qualified ~~se~~ to practice, and that individual must be licensed and approved. It is unlawful for an individual not licensed under this chapter to practice or to offer to practice professional, advanced professional or practical nursing in this State; to use a sign, card or device to indicate that the individual is a professional registered nurse, nurse in advanced practice or a licensed practical nurse; or to ~~held-oneself-out~~ profess to the public as to be a professional registered nurse, a nurse in advanced practice or a licensed practical nurse.

Sec. 4. 32 MRSA §2102, sub-§2, ¶B, as amended by PL 1993, c. 600, Pt. A, §110 is repealed.

Sec. 5. 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

2 III-A in providing health care services. "Advanced registered
3 nurse practitioner" includes nurse practitioners, nurse midwives
4 and nurse anesthetists qualified as specified in section 2231.

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

12 **Sec. 6. 32 MRSA §2105-A, sub-§2, ¶¶E to G,** as amended by PL
13 1993, c. 600, Pt. A, §116, are further amended to read:

14 E. Incompetence in the practice for which the licensee
15 individual is licensed or approved. A--licensee An
16 individual is considered incompetent in the practice if the
17 licensee individual has:

18 (1) Engaged in conduct that evidences a lack of
19 ability or fitness to discharge the duty owed by the
20 licensee individual to a client or patient or the
21 general public; or

22 (2) Engaged in conduct that evidences a lack of
23 knowledge or inability to apply principles or skills to
24 carry out the practice for which the licensee
25 individual is licensed or approved;

26 F. Unprofessional Engaging in unprofessional conduct. A
27 licensee An individual is considered to have engaged in
28 unprofessional conduct if the licensee individual violates a
29 standard of professional behavior that has been established
30 in the practice for which the licensee individual is
31 licensed or approved;

32 G. Subject to the limitations of Title 5, chapter 341,
33 conviction of a crime that involves dishonesty or false
34 statement or that relates directly to the practice for which
35 the licensee individual is licensed or approved, or
36 conviction of a crime for which incarceration for one year
37 or more may be imposed;

38 **Sec. 7. 32 MRSA §2152, sub-§1,** as amended by PL 1993, c. 600,
39 Pt. A, §121, is further amended to read:

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

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

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

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

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

20 **§2232. Practice parameters**

22 An advanced registered nurse practitioner may perform
24 diagnosis, treatment and prescription or administration of drugs,
therapeutic or corrective devices under the following practice
26 parameters.

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

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

38 3. Collaboration. An advanced registered nurse
40 practitioner, other than a nurse anesthetist, who is approved by
the board under section 2233 may perform these services in
42 collaboration with a physician. An advanced registered nurse
practitioner who is collaborating with a physician may also
44 collaborate with other health care professionals.

46 **§2233. Practice in collaboration**

48 The board shall approve an advanced registered nurse
practitioner, other than a nurse anesthetist, to practice in

2 collaboration upon the applicant's submitting to the board
3 written evidence, verified by oath, that the applicant:

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

8
9 2. Education. Has completed a formal education certificate
10 program as a nurse midwife or an obstetric and gynecologic nurse
11 practitioner or has completed a formal master's level education
12 program in advanced nursing in the specialty area of practice; and

13 3. Agreement. Has a written collaborative agreement with
14 at least one physician. A collaborative agreement must define
15 the respective duties and responsibilities of the parties,
16 including the method or methods to be used by the parties in
17 order to memorialize exchanges of information between them.

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19 **§2234. Liability**

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

24
25 1. Negligence; treatment. The physician was negligent in
26 rendering medical treatment in person directly to the patient; or

27
28 2. Negligence; direction or advice. The physician was
29 negligent in the direction or advice offered to the collaborating
30 advanced registered nurse practitioner based upon the information
31 provided to the physician. Unless an advanced registered nurse
32 practitioner and a collaborating physician have a written
33 collaborative agreement, the information provided by the advanced
34 registered nurse practitioner and the consultation advice by the
35 collaborating physician must be memorialized in writing or by
36 electronic means and the physician's liability is limited solely
37 to the memorialized response by the physician to the memorialized
38 information received.

39
40 This section does not apply if the advanced registered nurse
41 practitioner is an employee of the collaborating physician
42 seeking to avoid liability under this section.

43
44 At any time the court may dismiss all claims against a
45 physician to whom neither subsection 1 nor subsection 2 applies.

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47 **§2235. Practice parameters for nurse anesthetists**

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

12 **§2236. Nomenclature**

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

36 **§2237. Temporary approval to practice as an advanced registered**
38 **nurse practitioner**

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

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

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

§2238. Termination of advanced registered nurse practitioner
 designation

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.

§2239. Prescriptive authority

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.

2 **§2240. Notice; disclosure**

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

8 **Sec. 11. 32 MRSA c. 31, sub-c. VI** is enacted to read:

10 **Subchapter VI**

12 **Joint Practice Council on Nurse Practitioners**

14 **§2265. Joint Practice Council on Nurse Practitioners**

16 **1. Membership.** The Joint Practice Council on Nurse
18 Practitioners, as established by Title 5, section 12004-I,
20 subsection 73-B consists of 7 persons, including 3 members from
22 the State Board of Nursing, 2 members from the Board of
24 Registration in Medicine and one member each from the Board of
26 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.

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

36 **2. Purpose and duties.** The council shall make
38 recommendations to the appropriate boards on matters of mutual
40 concern between the boards the members represent and on issues
42 pertinent to the nurse practitioner formulary. The duties of the
44 council are advisory in nature and include making recommendations
46 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.

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

2 **Sec. 12. Recommendations required.** By January 1996, the Joint
Practice Council on Nurse Practitioners shall make
4 recommendations regarding this Act to the Joint Standing
Committee on Business and Economic Development, and shall provide
6 a copy to the Executive Director of the Legislative Council,
concerning, but not limited to, the following issues:

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

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

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

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

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

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

30 The council's submission must include any legislation
32 necessary for implementing its recommendations.

34 The chair of the council shall call the first meeting of the
council relative to these recommendations no later than October
36 16, 1995.

38 Notwithstanding Title 32, section 2265, a board may not
change an initially appointed member prior to January 1, 1997,
40 unless the appointing board determines that there are
extraordinary circumstances that necessitate the change.

42 **Sec. 13. Effective date.** Sections 3 to 11 of this Act take
44 effect January 1, 1997.

46

STATEMENT OF FACT

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4 The purpose of this bill is to improve access to the health
care delivery system in the State by promoting effective
utilization of advanced registered nurse practitioners.

6

8 This bill clarifies the eligibility requirements and the
approval process for persons who are advanced registered nurse
practitioners.