

SECOND REGULAR SESSION

SENATE BILL NO. 724

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3351S.011

AN ACT

To repeal sections 195.070, 195.100, 334.104, and 335.016, RSMo, and to enact in lieu thereof five new sections relating to nurses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 195.070, 195.100, 334.104, and 335.016, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 195.070, 195.100, 334.104, 335.016, and 335.019, to read as follows:

195.070. 1. A physician, podiatrist, dentist, or a registered optometrist
2 certified to administer pharmaceutical agents as provided in section 336.220,
3 RSMo, in good faith and in the course of his or her professional practice only, may
4 prescribe, administer, and dispense controlled substances or he or she may cause
5 the same to be administered or dispensed by an individual as authorized by
6 statute.

7 2. **An advanced practice registered nurse, as defined in section**
8 **335.016, RSMo, who holds a certificate of controlled substance**
9 **prescriptive authority from the board of nursing pursuant to section**
10 **335.019, RSMo, and who is delegated the authority to prescribe**
11 **controlled substances under a controlled substance collaborative**
12 **practice agreement pursuant to section 334.104, RSMo, may prescribe**
13 **any controlled substances listed in Schedules II, III, IV, and V of**
14 **section 195.017, RSMo. However, no such certified advanced practice**
15 **registered nurse shall prescribe controlled substance for his or her own**
16 **self or family.**

17 3. A veterinarian, in good faith and in the course of his professional
18 practice only, and not for use by a human being, may prescribe, administer, and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 dispense controlled substances and he may cause them to be administered by an
20 assistant or orderly under his direction and supervision.

21 [3.] 4. A practitioner shall not accept any portion of a controlled
22 substance unused by a patient, for any reason, if such practitioner did not
23 originally dispense the drug.

24 [4.] 5. An individual practitioner may not prescribe or dispense a
25 controlled substance for such practitioner's personal use except in a medical
26 emergency.

195.100. 1. It shall be unlawful to distribute any controlled substance in
2 a commercial container unless such container bears a label containing an
3 identifying symbol for such substance in accordance with federal laws.

4 2. It shall be unlawful for any manufacturer of any controlled substance
5 to distribute such substance unless the labeling thereof conforms to the
6 requirements of federal law and contains the identifying symbol required in
7 subsection 1 of this section.

8 3. The label of a controlled substance in Schedule II, III or IV shall, when
9 dispensed to or for a patient, contain a clear, concise warning that it is a criminal
10 offense to transfer such narcotic or dangerous drug to any person other than the
11 patient.

12 4. Whenever a manufacturer sells or dispenses a controlled substance and
13 whenever a wholesaler sells or dispenses a controlled substance in a package
14 prepared by him, he shall securely affix to each package in which that drug is
15 contained, a label showing in legible English the name and address of the vendor
16 and the quantity, kind, and form of controlled substance contained therein. No
17 person except a pharmacist for the purpose of filling a prescription under sections
18 195.005 to 195.425, shall alter, deface, or remove any label so affixed.

19 5. Whenever a pharmacist or practitioner sells or dispenses any controlled
20 substance on a prescription issued by a physician, dentist, podiatrist [or],
21 veterinarian, **or advanced practice registered nurse**, he shall affix to the
22 container in which such drug is sold or dispensed, a label showing his own name
23 and address of the pharmacy or practitioner for whom he is lawfully acting; the
24 name of the patient or, if the patient is an animal, the name of the owner of the
25 animal and the species of the animal; the name of the physician, dentist,
26 podiatrist [or], **advanced practice registered nurse, or veterinarian** by whom
27 the prescription was written; **the name of the collaborating physician if the**
28 **prescription is written by an advanced practice registered nurse**, and

29 such directions as may be stated on the prescription. No person shall alter,
30 deface, or remove any label so affixed.

334.104. 1. A physician may enter into collaborative practice
2 arrangements with registered professional nurses. Collaborative practice
3 arrangements shall be in the form of written agreements, jointly agreed-upon
4 protocols, or standing orders for the delivery of health care
5 services. Collaborative practice arrangements, which shall be in writing, may
6 delegate to a registered professional nurse the authority to administer or dispense
7 drugs and provide treatment as long as the delivery of such health care services
8 is within the scope of practice of the registered professional nurse and is
9 consistent with that nurse's skill, training and competence.

10 2. Collaborative practice arrangements, which shall be in writing, may
11 delegate to a registered professional nurse the authority to administer, dispense
12 or prescribe drugs and provide treatment if the registered professional nurse is
13 an advanced practice nurse as defined in subdivision (2) of section 335.016,
14 RSMo. Such collaborative practice arrangements shall be in the form of written
15 agreements, jointly agreed-upon protocols or standing orders for the delivery of
16 health care services.

17 3. **Controlled substance collaborative practice arrangements may**
18 **delegate to an advanced practice registered nurse, as defined in section**
19 **335.016, RSMo, the authority to administer, dispense, or prescribe**
20 **controlled substances listed in Schedules II, III, IV, and V of section**
21 **195.017, RSMo. Such controlled substance collaborative practice**
22 **agreements shall be in writing and shall also set forth provisions for**
23 **the type of collaboration between the advanced practice registered**
24 **nurse and the collaborating physician. The written controlled**
25 **substance collaborative practice agreement shall contain at least the**
26 **following provisions:**

27 (1) **Complete names, home and business addresses, zip codes, and**
28 **telephone numbers of the collaborating physician and the advanced**
29 **practice registered nurse;**

30 (2) **A list of all other offices or locations besides those listed in**
31 **subdivision (1) of this subsection where the collaborating physician**
32 **authorized the advanced practice registered nurse to prescribe;**

33 (3) **A requirement that there shall be posted at every office**
34 **where the advanced practice registered nurse is authorized to**

35 prescribe, in collaboration with a physician, a prominently displayed
36 disclosure statement informing patients that they may be seen by an
37 advanced practice registered nurse;

38 (4) All specialty or board certifications of the collaborating
39 physician and the advanced practice registered nurse;

40 (5) The manner of collaboration between the collaborating
41 physician and the advanced practice registered nurse, including how
42 the collaborating physician and the advanced practice registered nurse
43 will:

44 (a) Engage in collaborative practice consistent with each
45 professional's skill, training, education, and competence;

46 (b) Maintain geographic proximity; and

47 (c) Provide coverage during absence, incapacity, infirmity, or
48 emergency by the collaborating physician;

49 (6) A description of the advanced practice registered nurse's
50 controlled substance prescriptive authority in collaboration with the
51 physician, and that it is consistent with each professional's education,
52 knowledge, skill, and competence;

53 (7) A list of all other written practice agreements of the
54 collaborating physician and the advanced practice registered nurse;
55 and

56 (8) The duration of the written practice agreement between the
57 collaborating physician and the advanced practice registered nurse.

58 4. The state board of registration for the healing arts pursuant to section
59 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly
60 promulgate rules regulating the use of collaborative practice arrangements **and**
61 **controlled substance collaborative practice arrangements**. Such rules
62 shall be limited to specifying geographic areas to be covered, the methods of
63 treatment that may be covered by collaborative practice arrangements and the
64 requirements for review of services provided pursuant to collaborative practice
65 arrangements **including collaborative practice arrangements delegating**
66 **authority to prescribe controlled substances**. Any rules relating to
67 dispensing or distribution of medications or devices by prescription or
68 prescription drug orders under this section shall be subject to the approval of the
69 state board of pharmacy. In order to take effect, such rules shall be approved by
70 a majority vote of a quorum of each board. Neither the state board of registration

71 for the healing arts nor the board of nursing may separately promulgate rules
72 relating to collaborative practice arrangements. Such jointly promulgated rules
73 shall be consistent with guidelines for federally funded clinics. The rulemaking
74 authority granted in this subsection shall not extend to collaborative practice
75 arrangements of hospital employees providing inpatient care within hospitals as
76 defined pursuant to chapter 197, RSMo.

77 [4.] 5. The state board of registration for the healing arts shall not deny,
78 revoke, suspend or otherwise take disciplinary action against a physician for
79 health care services delegated to a registered professional nurse provided the
80 provisions of this section and the rules promulgated thereunder are
81 satisfied. Upon the written request of a physician subject to a disciplinary action
82 imposed as a result of an agreement between a physician and a registered
83 professional nurse or registered physician assistant, whether written or not, prior
84 to August 28, 1993, all records of such disciplinary licensure action and all
85 records pertaining to the filing, investigation or review of an alleged violation of
86 this chapter incurred as a result of such an agreement shall be removed from the
87 records of the state board of registration for the healing arts and the division of
88 professional registration and shall not be disclosed to any public or private entity
89 seeking such information from the board or the division. The state board of
90 registration for the healing arts shall take action to correct reports of alleged
91 violations and disciplinary actions as described in this section which have been
92 submitted to the National Practitioner Data Bank. In subsequent applications
93 or representations relating to his medical practice, a physician completing forms
94 or documents shall not be required to report any actions of the state board of
95 registration for the healing arts for which the records are subject to removal
96 under this section.

97 [5.] 6. Within thirty days of any change and on each renewal, the state
98 board of registration for the healing arts shall require every physician to identify
99 whether the physician is engaged in any collaborative practice agreement,
100 **including collaborative practice agreements delegating the authority**
101 **to prescribe controlled substances**, or physician assistant agreement and
102 also report to the board the name of each licensed professional with whom the
103 physician has entered into such agreement. The board may make this
104 information available to the public. The board shall track the reported
105 information and may routinely conduct random reviews of such agreements to
106 ensure that agreements are carried out for compliance under this chapter.

107 **[6.] 7.** Notwithstanding anything to the contrary in this section, a
108 registered nurse who has graduated from a school of nurse anesthesia accredited
109 by the Council on Accreditation of Educational Programs of Nurse Anesthesia or
110 its predecessor and has been certified or is eligible for certification as a nurse
111 anesthetist by the Council on Certification of Nurse Anesthetists shall be
112 permitted to provide anesthesia services without a collaborative practice
113 arrangement provided that he or she is under the supervision of an
114 anesthesiologist or other physician, dentist, or podiatrist who is immediately
115 available if needed.

116 **8.** A collaborating physician shall not enter into a collaborative
117 practice arrangement with more than three full-time equivalent
118 advanced practice registered nurses.

119 **9.** It is the responsibility of the collaborating physician to
120 determine and document the completion of at least a one-month period
121 of time during which the advanced practice registered nurse shall
122 practice with the collaborating physician continuously present before
123 practicing in a setting where the collaborating physician is not
124 continuously present.

125 **10.** It shall be unlawful to require any physician to enter into any
126 contract or other agreement to serve as a collaborating physician for
127 any advanced practice registered nurse. A physician shall have the
128 right to refuse to act as collaborating physician, without penalty, for a
129 particular advanced practice registered nurse. No contract or other
130 agreement shall limit the collaborating physician's ultimate authority
131 regarding protocols or standing orders or in the delegation of the
132 physician's authority to any advanced practice registered nurse.

133 **11.** It shall be unlawful to require any advanced practice
134 registered nurse to enter into any contract or other agreement to serve
135 as a collaborating advanced practice registered nurse for any
136 collaborating physician. An advanced practice registered nurse shall
137 have the right to refuse to collaborate, without penalty, with a
138 particular physician.

 335.016. As used in this chapter, unless the context clearly requires
2 otherwise, the following words and terms mean:

3 (1) "Accredited", the official authorization or status granted by an agency
4 for a program through a voluntary process;

5 (2) "Advanced practice **registered** nurse", a nurse who has [had]
6 education beyond the basic nursing education and is certified by a nationally
7 recognized professional organization [as having a nursing specialty, or who meets
8 criteria for advanced practice nurses established by the board of nursing. The
9 board of nursing may promulgate rules specifying which professional nursing
10 organization certifications are to be recognized as advanced practice nurses, and
11 may set standards for education, training and experience required for those
12 without such specialty certification to become advanced practice nurses] **as an**
13 **advanced practice registered nurse practitioner, certified nurse**
14 **midwife, certified registered nurse anesthetist, or a certified clinical**
15 **nurse specialist. The board shall have the authority to approve any**
16 **nationally recognized professional organization for the purposes of this**
17 **section.** Advanced practice nurses and only such individuals may use the title
18 "Advanced Practice Registered Nurse" and the abbreviation "APRN";

19 (3) **"Advanced registered nurse practitioner", a registered nurse**
20 **who is currently certified as a nurse practitioner by a nationally**
21 **recognized certifying body approved by the board of nursing;**

22 (4) "Approval", official recognition of nursing education programs which
23 meet standards established by the board of nursing;

24 [(4)] (5) "Board" or "state board", the state board of nursing;

25 (6) **"Certified clinical nurse specialist", a registered nurse who is**
26 **currently certified as a clinical nurse specialist by a nationally**
27 **recognized certifying board approved by the board of nursing;**

28 (7) **"Certified nurse midwife", a registered nurse who is currently**
29 **certified as a nurse midwife by the American College of Nurse**
30 **Midwives, or other nationally recognized certifying body approved by**
31 **the board of nursing;**

32 (8) **"Certified registered nurse anesthetist", a registered nurse**
33 **who is currently certified as a nurse anesthetist by the Council on**
34 **Certification of Nurse Anesthetists, the Council on Recertification of**
35 **Nurse Anesthetists, or other nationally recognized certifying body**
36 **approved by the board of nursing;**

37 [(5)] (9) "Executive director", a qualified individual employed by the
38 board as executive secretary or otherwise to administer the provisions of this
39 chapter under the board's direction. Such person employed as executive director
40 shall not be a member of the board;

41 [(6)] (10) "Inactive nurse", as defined by rule pursuant to section
42 335.061;

43 [(7)] (11) "Lapsed license status", as defined by rule under section
44 335.061;

45 [(8)] (12) "Licensed practical nurse" or "practical nurse", a person
46 licensed pursuant to the provisions of this chapter to engage in the practice of
47 practical nursing;

48 [(9)] (13) "Licensure", the issuing of a license to practice professional or
49 practical nursing to candidates who have met the specified requirements and the
50 recording of the names of those persons as holders of a license to practice
51 professional or practical nursing;

52 [(10)] (14) "Practical nursing", the performance for compensation of
53 selected acts for the promotion of health and in the care of persons who are ill,
54 injured, or experiencing alterations in normal health processes. Such
55 performance requires substantial specialized skill, judgment and knowledge. All
56 such nursing care shall be given under the direction of a person licensed by a
57 state regulatory board to prescribe medications and treatments or under the
58 direction of a registered professional nurse. For the purposes of this chapter, the
59 term "direction" shall mean guidance or supervision provided by a person licensed
60 by a state regulatory board to prescribe medications and treatments or a
61 registered professional nurse, including, but not limited to, oral, written, or
62 otherwise communicated orders or directives for patient care. When practical
63 nursing care is delivered pursuant to the direction of a person licensed by a state
64 regulatory board to prescribe medications and treatments or under the direction
65 of a registered professional nurse, such care may be delivered by a licensed
66 practical nurse without direct physical oversight;

67 [(11)] (15) "Professional nursing", the performance for compensation of
68 any act which requires substantial specialized education, judgment and skill
69 based on knowledge and application of principles derived from the biological,
70 physical, social and nursing sciences, including, but not limited to:

71 (a) Responsibility for the teaching of health care and the prevention of
72 illness to the patient and his or her family;

73 (b) Assessment, nursing diagnosis, nursing care, and counsel of persons
74 who are ill, injured or experiencing alterations in normal health processes;

75 (c) The administration of medications and treatments as prescribed by a
76 person licensed by a state regulatory board to prescribe medications and

77 treatments;

78 (d) The coordination and assistance in the delivery of a plan of health care
79 with all members of a health team;

80 (e) The teaching and supervision of other persons in the performance of
81 any of the foregoing;

82 [(12)] (16) A "registered professional nurse" or "registered nurse", a
83 person licensed pursuant to the provisions of this chapter to engage in the
84 practice of professional nursing;

85 [(13)] (17) "Retired license status", any person licensed in this state
86 under this chapter who retires from such practice. Such person shall file with the
87 board an affidavit, on a form to be furnished by the board, which states the date
88 on which the licensee retired from such practice, an intent to retire from the
89 practice for at least two years, and such other facts as tend to verify the
90 retirement as the board may deem necessary; but if the licensee thereafter
91 reengages in the practice, the licensee shall renew his or her license with the
92 board as provided by this chapter and by rule and regulation.

**335.019. The board of nursing may grant a certificate of
2 controlled substance prescriptive authority to an advanced practice
3 nurse who:**

4 (1) Submits proof of successful completion of an advanced
5 pharmacology course that shall include preceptorial experience in the
6 prescription of drugs, medicines and therapeutic devices; and

7 (2) Provides documentation of a minimum of three hundred clock
8 hours preceptorial experience in the prescription of drugs, medicines,
9 and therapeutic devices with a qualified preceptor; and

10 (3) Provides evidence of a minimum of one thousand hours of
11 practice in an advanced practice nursing category prior to application
12 for a certificate of prescriptive authority. The one thousand hours
13 shall not include clinical hours obtained in the advanced practice
14 nursing education program. The one thousand hours of practice in an
15 advanced practice nursing category may include transmitting a
16 prescription order orally or telephonically or to an inpatient medical
17 record from protocols developed in collaboration with and signed by a
18 licensed physician; and

19 (4) Has a controlled substance prescribing authority delegated
20 in the collaborative practice agreement pursuant to section 334.104,

21 RSMo, with a physician who has an unrestricted federal Drug
22 Enforcement Administration registration number and who is actively
23 engaged in a practice comparable in scope, specialty, or expertise to
24 that of the advanced practice registered nurse.

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