

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 724
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, February 7, 2008, with recommendation that the Senate Committee Substitute do pass.

3351S.03C

TERRY L. SPIELER, Secretary.

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2 repealed and five new sections enacted in lieu thereof, to be known as sections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 under section 335.019,**
10 **RSMo, and who is delegated the authority to prescribe controlled**
11 **substances under a collaborative practice arrangement under section**
12 **334.104, RSMo, may prescribe any controlled substances listed in**
13 **Schedules III, IV, and V of section 195.017. However, no such certified**
14 **advanced practice registered nurse shall prescribe controlled substance**
15 **for his or her own self or family.**

16 3. A veterinarian, in good faith and in the course of his professional
17 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.

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

20 [3.] 4. A practitioner shall not accept any portion of a controlled
21 substance unused by a patient, for any reason, if such practitioner did not
22 originally dispense the drug.

23 [4.] 5. An individual practitioner may not prescribe or dispense a
24 controlled substance for such practitioner's personal use except in a medical
25 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. **Collaborative practice arrangements may delegate to an**
15 **advanced practice registered nurse, as defined in section 335.016,**
16 **RSMo, the authority to administer, dispense, or prescribe controlled**
17 **substances listed in Schedules III, IV, and V of section 195.017,**
18 **RSMo.** Such collaborative practice arrangements shall be in the form of written
19 agreements, jointly agreed-upon protocols or standing orders for the delivery of
20 health care services.

21 3. **The written collaborative practice arrangement shall contain**
22 **at least the following provisions:**

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

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

29 (3) **A requirement that there shall be posted at every office**
30 **where the advanced practice registered nurse is authorized to**
31 **prescribe, in collaboration with a physician, a prominently displayed**
32 **disclosure statement informing patients that they may be seen by an**
33 **advanced practice registered nurse and have the right to see the**
34 **collaborating physician;**

35 (4) All specialty or board certifications of the collaborating
36 physician and all certifications of the advanced practice registered
37 nurse;

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

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

44 (b) Maintain geographic proximity; and

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

47 (6) A description of the advanced practice registered nurse's
48 controlled substance prescriptive authority in collaboration with the
49 physician, including a list of the controlled substances the physician
50 authorizes the nurse to prescribe and documentation that it is
51 consistent with each professional's education, knowledge, skill, and
52 competence;

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

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

58 (9) A description of the time and manner of the collaborating
59 physician's review of the advanced practice registered nurse's
60 prescribing practices. The description shall include provisions that the
61 advanced practice registered nurse shall submit documentation of the
62 advanced practice registered nurse's prescribing practices to the
63 collaborating physician within fourteen days. The documentation shall
64 include, but not be limited to, a random sample review by the
65 collaborating physician of at least twenty percent of the charts and
66 medications prescribed.

67 4. The state board of registration for the healing arts pursuant to section
68 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly
69 promulgate rules regulating the use of collaborative practice arrangements. Such
70 rules shall be limited to specifying geographic areas to be covered, the methods
71 of treatment that may be covered by collaborative practice arrangements and the

72 requirements for review of services provided pursuant to collaborative practice
73 arrangements **including delegating authority to prescribe controlled**
74 **substances**. Any rules relating to dispensing or distribution of medications or
75 devices by prescription or prescription drug orders under this section shall be
76 subject to the approval of the state board of pharmacy. In order to take effect,
77 such rules shall be approved by a majority vote of a quorum of each
78 board. Neither the state board of registration for the healing arts nor the board
79 of nursing may separately promulgate rules relating to collaborative practice
80 arrangements. Such jointly promulgated rules shall be consistent with guidelines
81 for federally funded clinics. The rulemaking authority granted in this subsection
82 shall not extend to collaborative practice arrangements of hospital employees
83 providing inpatient care within hospitals as defined pursuant to chapter 197,
84 RSMo.

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

105 [5.] 6. Within thirty days of any change and on each renewal, the state
106 board of registration for the healing arts shall require every physician to identify
107 whether the physician is engaged in any collaborative practice agreement,

108 **including collaborative practice agreements delegating the authority**
109 **to prescribe controlled substances,** or physician assistant agreement and
110 also report to the board the name of each licensed professional with whom the
111 physician has entered into such agreement. The board may make this
112 information available to the public. The board shall track the reported
113 information and may routinely conduct random reviews of such agreements to
114 ensure that agreements are carried out for compliance under this chapter.

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

124 **8. A collaborating physician shall not enter into a collaborative**
125 **practice arrangement with more than three full-time equivalent**
126 **advanced practice registered nurses. This limitation shall not apply to**
127 **collaborative arrangements of hospital employees providing inpatient**
128 **care service in hospitals as defined in chapter 197, RSMo.**

129 **9. It is the responsibility of the collaborating physician to**
130 **determine and document the completion of at least a one-month period**
131 **of time during which the advanced practice registered nurse shall**
132 **practice with the collaborating physician continuously present before**
133 **practicing in a setting where the collaborating physician is not**
134 **continuously present.**

135 **10. No agreement made under this section shall supersede**
136 **current hospital licensing regulations governing hospital medication**
137 **orders under protocols or standing orders for the purpose of delivering**
138 **inpatient or emergency care within a hospital as defined in section**
139 **197.020, RSMo, if such protocols or standing orders have been approved**
140 **by the hospital's medical staff and pharmaceutical therapeutics**
141 **committee.**

142 **11. No contract or other agreement shall require a physician to**
143 **act as a collaborating physician for an advanced practice registered**

144 nurse against the physician's will. A physician shall have the right to
145 refuse to act as a collaborating physician, without penalty, for a
146 particular advanced practice registered nurse. No contract or other
147 agreement shall limit the collaborating physician's ultimate authority
148 over any protocols or standing orders or in the delegation of the
149 physician's authority to any advanced practice registered nurse, but
150 this requirement shall not authorize a physician in implementing such
151 protocols, standing orders, or delegation to violate applicable standards
152 for safe medical practice established by hospital's medical staff.

153 **12. No contract or other agreement shall require any advanced**
154 **practice registered nurse to serve as a collaborating advanced practice**
155 **registered nurse for any collaborating physician against the advanced**
156 **practice registered nurse's will. An advanced practice registered nurse**
157 **shall have the right to refuse to collaborate, without penalty, with a**
158 **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 a**
13 **certified nurse practitioner, certified nurse midwife, certified**
14 **registered nurse anesthetist, or a certified clinical nurse**
15 **specialist. The board shall promulgate rules specifying which**
16 **nationally recognized professional organization certifications are to be**
17 **recognized for the purposes of this section.** Advanced practice nurses and
18 only such individuals may use the title "Advanced Practice Registered Nurse" and
19 the abbreviation "APRN";

20 (3) "Approval", official recognition of nursing education programs which
21 meet standards established by the board of nursing;

22 (4) "Board" or "state board", the state board of nursing;

23 (5) "Certified nurse practitioner", a registered nurse who is
24 currently certified as a nurse practitioner by a nationally recognized
25 certifying body approved by the board of nursing;

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

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

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

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

42 [(6)] (10) "Inactive nurse", as defined by rule pursuant to section
43 335.061;

44 [(7)] (11) "Lapsed license status", as defined by rule under section
45 335.061;

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

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

53 [(10)] (14) "Practical nursing", the performance for compensation of
54 selected acts for the promotion of health and in the care of persons who are ill,
55 injured, or experiencing alterations in normal health processes. Such
56 performance requires substantial specialized skill, judgment and knowledge. All
57 such nursing care shall be given under the direction of a person licensed by a

58 state regulatory board to prescribe medications and treatments or under the
59 direction of a registered professional nurse. For the purposes of this chapter, the
60 term "direction" shall mean guidance or supervision provided by a person licensed
61 by a state regulatory board to prescribe medications and treatments or a
62 registered professional nurse, including, but not limited to, oral, written, or
63 otherwise communicated orders or directives for patient care. When practical
64 nursing care is delivered pursuant to the direction of a person licensed by a state
65 regulatory board to prescribe medications and treatments or under the direction
66 of a registered professional nurse, such care may be delivered by a licensed
67 practical nurse without direct physical oversight;

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

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

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

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

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

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

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

86 **[(13)] (17)** "Retired license status", any person licensed in this state
87 under this chapter who retires from such practice. Such person shall file with the
88 board an affidavit, on a form to be furnished by the board, which states the date
89 on which the licensee retired from such practice, an intent to retire from the
90 practice for at least two years, and such other facts as tend to verify the
91 retirement as the board may deem necessary; but if the licensee thereafter
92 reengages in the practice, the licensee shall renew his or her license with the
93 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 registered 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 arrangement under section 334.104, RSMo,
21 with a physician who has an unrestricted federal Drug Enforcement
22 Administration registration number and who is actively engaged in a
23 practice comparable in scope, specialty, or expertise to that of the
24 advanced practice registered nurse.

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