

FIRST REGULAR SESSION

SENATE BILL NO. 313

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time January 26, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1596S.011

AN ACT

To repeal sections 195.070 and 334.104, RSMo, and to enact in lieu thereof two new sections relating to controlled substances prescribed by advanced practice registered nurses.

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

Section A. Sections 195.070 and 334.104, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 195.070 and 334.104, to read as follows:

195.070. 1. A physician, podiatrist, dentist, a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, or an assistant physician in accordance with section 334.037 or a physician assistant in accordance with section 334.747 in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019 and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104 may prescribe any controlled substances listed in Schedules II, III, IV, and V of section 195.017. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule [III] II narcotic controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without refill.

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

18 3. A veterinarian, in good faith and in the course of the veterinarian's
19 professional practice only, and not for use by a human being, may prescribe,
20 administer, and dispense controlled substances and the veterinarian may cause
21 them to be administered by an assistant or orderly under his or her direction and
22 supervision.

23 4. A practitioner shall not accept any portion of a controlled substance
24 unused by a patient, for any reason, if such practitioner did not originally
25 dispense the drug.

26 5. An individual practitioner shall not prescribe or dispense a controlled
27 substance for such practitioner's personal use except in a medical emergency.

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 registered nurse as defined in subdivision (2) of section
14 335.016. Collaborative practice arrangements may delegate to an advanced
15 practice registered nurse, as defined in section 335.016, the authority to
16 administer, dispense, or prescribe controlled substances listed in Schedules **II**,
17 **III**, **IV**, and **V** of section 195.017; except that, the collaborative practice
18 arrangement shall not delegate the authority to administer any controlled
19 substances listed in [schedules] **Schedules II**, **III**, **IV**, and **V** of section 195.017
20 for the purpose of inducing sedation or general anesthesia for therapeutic,
21 diagnostic, or surgical procedures. Schedule ~~III~~ **II** narcotic controlled substance
22 prescriptions shall be limited to a one hundred twenty-hour supply without
23 refill. Such collaborative practice arrangements shall be in the form of written
24 agreements, jointly agreed-upon protocols or standing orders for the delivery of
25 health care services.

26 3. The written collaborative practice arrangement shall contain at least

27 the following provisions:

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

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

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

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

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

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

46 (b) Maintain geographic proximity, except the collaborative practice
47 arrangement may allow for geographic proximity to be waived for a maximum of
48 twenty-eight days per calendar year for rural health clinics as defined by P.L.
49 95-210, as long as the collaborative practice arrangement includes alternative
50 plans as required in paragraph (c) of this subdivision. This exception to
51 geographic proximity shall apply only to independent rural health clinics,
52 provider-based rural health clinics where the provider is a critical access hospital
53 as provided in 42 U.S.C. 1395i-4, and provider-based rural health clinics where
54 the main location of the hospital sponsor is greater than fifty miles from the
55 clinic. The collaborating physician is required to maintain documentation related
56 to this requirement and to present it to the state board of registration for the
57 healing arts when requested; and

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

60 (6) A description of the advanced practice registered nurse's controlled
61 substance prescriptive authority in collaboration with the physician, including a
62 list of the controlled substances the physician authorizes the nurse to prescribe

63 and documentation that it is consistent with each professional's education,
64 knowledge, skill, and competence;

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

67 (8) The duration of the written practice agreement between the
68 collaborating physician and the advanced practice registered nurse;

69 (9) A description of the time and manner of the collaborating physician's
70 review of the advanced practice registered nurse's delivery of health care
71 services. The description shall include provisions that the advanced practice
72 registered nurse shall submit a minimum of ten percent of the charts
73 documenting the advanced practice registered nurse's delivery of health care
74 services to the collaborating physician for review by the collaborating physician,
75 or any other physician designated in the collaborative practice arrangement,
76 every fourteen days; and

77 (10) The collaborating physician, or any other physician designated in the
78 collaborative practice arrangement, shall review every fourteen days a minimum
79 of twenty percent of the charts in which the advanced practice registered nurse
80 prescribes controlled substances. The charts reviewed under this subdivision may
81 be counted in the number of charts required to be reviewed under subdivision (9)
82 of this subsection.

83 4. The state board of registration for the healing arts pursuant to section
84 334.125 and the board of nursing pursuant to section 335.036 may jointly
85 promulgate rules regulating the use of collaborative practice arrangements. Such
86 rules shall be limited to specifying geographic areas to be covered, the methods
87 of treatment that may be covered by collaborative practice arrangements and the
88 requirements for review of services provided pursuant to collaborative practice
89 arrangements including delegating authority to prescribe controlled
90 substances. Any rules relating to dispensing or distribution of medications or
91 devices by prescription or prescription drug orders under this section shall be
92 subject to the approval of the state board of pharmacy. Any rules relating to
93 dispensing or distribution of controlled substances by prescription or prescription
94 drug orders under this section shall be subject to the approval of the department
95 of health and senior services and the state board of pharmacy. In order to take
96 effect, such rules shall be approved by a majority vote of a quorum of each
97 board. Neither the state board of registration for the healing arts nor the board
98 of nursing may separately promulgate rules relating to collaborative practice

99 arrangements. Such jointly promulgated rules shall be consistent with guidelines
100 for federally funded clinics. The rulemaking authority granted in this subsection
101 shall not extend to collaborative practice arrangements of hospital employees
102 providing inpatient care within hospitals as defined pursuant to chapter 197 or
103 population-based public health services as defined by 20 CSR 2150-5.100 as of
104 April 30, 2008.

105 5. The state board of registration for the healing arts shall not deny,
106 revoke, suspend or otherwise take disciplinary action against a physician for
107 health care services delegated to a registered professional nurse provided the
108 provisions of this section and the rules promulgated thereunder are satisfied. Upon
109 the written request of a physician subject to a disciplinary action imposed as a
110 result of an agreement between a physician and a registered professional nurse
111 or registered physician assistant, whether written or not, prior to August 28,
112 1993, all records of such disciplinary licensure action and all records pertaining
113 to the filing, investigation or review of an alleged violation of this chapter
114 incurred as a result of such an agreement shall be removed from the records of
115 the state board of registration for the healing arts and the division of professional
116 registration and shall not be disclosed to any public or private entity seeking such
117 information from the board or the division. The state board of registration for the
118 healing arts shall take action to correct reports of alleged violations and
119 disciplinary actions as described in this section which have been submitted to the
120 National Practitioner Data Bank. In subsequent applications or representations
121 relating to his medical practice, a physician completing forms or documents shall
122 not be required to report any actions of the state board of registration for the
123 healing arts for which the records are subject to removal under this section.

124 6. Within thirty days of any change and on each renewal, the state board
125 of registration for the healing arts shall require every physician to identify
126 whether the physician is engaged in any collaborative practice agreement,
127 including collaborative practice agreements delegating the authority to prescribe
128 controlled substances, or physician assistant agreement and also report to the
129 board the name of each licensed professional with whom the physician has
130 entered into such agreement. The board may make this information available to
131 the public. The board shall track the reported information and may routinely
132 conduct random reviews of such agreements to ensure that agreements are
133 carried out for compliance under this chapter.

134 7. Notwithstanding any law to the contrary, a certified registered nurse

135 anesthetist as defined in subdivision (8) of section 335.016 shall be permitted to
136 provide anesthesia services without a collaborative practice arrangement provided
137 that he or she is under the supervision of an anesthesiologist or other physician,
138 dentist, or podiatrist who is immediately available if needed. Nothing in this
139 subsection shall be construed to prohibit or prevent a certified registered nurse
140 anesthetist as defined in subdivision (8) of section 335.016 from entering into a
141 collaborative practice arrangement under this section, except that the
142 collaborative practice arrangement may not delegate the authority to prescribe
143 any controlled substances listed in Schedules III, IV, and V of section 195.017.

144 8. A collaborating physician shall not enter into a collaborative practice
145 arrangement with more than three full-time equivalent advanced practice
146 registered nurses. This limitation shall not apply to collaborative arrangements
147 of hospital employees providing inpatient care service in hospitals as defined in
148 chapter 197 or population-based public health services as defined by 20 CSR
149 2150-5.100 as of April 30, 2008.

150 9. It is the responsibility of the collaborating physician to determine and
151 document the completion of at least a one-month period of time during which the
152 advanced practice registered nurse shall practice with the collaborating physician
153 continuously present before practicing in a setting where the collaborating
154 physician is not continuously present. This limitation shall not apply to
155 collaborative arrangements of providers of population-based public health services
156 as defined by 20 CSR 2150-5.100 as of April 30, 2008.

157 10. No agreement made under this section shall supersede current
158 hospital licensing regulations governing hospital medication orders under
159 protocols or standing orders for the purpose of delivering inpatient or emergency
160 care within a hospital as defined in section 197.020 if such protocols or standing
161 orders have been approved by the hospital's medical staff and pharmaceutical
162 therapeutics committee.

163 11. No contract or other agreement shall require a physician to act as a
164 collaborating physician for an advanced practice registered nurse against the
165 physician's will. A physician shall have the right to refuse to act as a
166 collaborating physician, without penalty, for a particular advanced practice
167 registered nurse. No contract or other agreement shall limit the collaborating
168 physician's ultimate authority over any protocols or standing orders or in the
169 delegation of the physician's authority to any advanced practice registered nurse,
170 but this requirement shall not authorize a physician in implementing such

171 protocols, standing orders, or delegation to violate applicable standards for safe
172 medical practice established by hospital's medical staff.

173 12. No contract or other agreement shall require any advanced practice
174 registered nurse to serve as a collaborating advanced practice registered nurse
175 for any collaborating physician against the advanced practice registered nurse's
176 will. An advanced practice registered nurse shall have the right to refuse to
177 collaborate, without penalty, with a particular physician.

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