

FIRST REGULAR SESSION

HOUSE BILL NO. 284

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEWIS (25).

0579H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 197.400, 197.405, 197.445, 334.104, and 335.175, RSMo, and to enact in lieu thereof five new sections relating to health care professionals, with an emergency clause.

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

Section A. Sections 197.400, 197.405, 197.445, 334.104, and 335.175, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 197.400, 197.405, 197.445, 334.104, and 335.175, to read as follows:

197.400. As used in sections 197.400 to 197.475, unless the context otherwise requires, the following terms mean:

(1) "**Advanced practice registered nurse**", the same meaning given to the term in section 335.016;

(2) "Council", the home health services advisory council created by sections 197.400 to 197.475;

~~(2)~~ (3) "Department", the department of health and senior services;

~~(3)~~ (4) "Home health agency", a public agency or private organization or a subdivision or subunit of an agency or organization that provides two or more home health services at the residence of a patient according to a written plan of treatment signed by a physician, **podiatrist, advanced practice registered nurse**, nurse practitioner, clinical nurse specialist, or physician assistant;

~~(4)~~ (5) "Home health services", any of the following items and services provided at the residence of the patient on a part-time or intermittent basis: nursing, physical therapy, speech therapy, occupational therapy, home health aid, or medical social service;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 ~~[(5)]~~ (6) "Nurse practitioner, clinical nurse specialist", a person recognized by the
17 state board of nursing pursuant to the provisions of chapter 335 to practice in this state as a
18 nurse practitioner or clinical nurse specialist;

19 ~~[(6)]~~ (7) "Part-time or intermittent basis", the providing of home health services in an
20 interrupted interval sequence on the average of not to exceed three hours in any twenty-four-
21 hour period;

22 ~~[(7)]~~ (8) "Patient's residence", the actual place of residence of the person receiving
23 home health services, including institutional residences as well as individual dwelling units;

24 ~~[(8)]~~ (9) "Physician", a person licensed by the state board of registration for the
25 healing arts pursuant to the provisions of chapter 334 to practice in this state as a physician
26 and surgeon;

27 ~~[(9)]~~ (10) "Physician assistant", a person licensed by the state board of registration for
28 the healing arts pursuant to the provisions of chapter 334 to practice in this state as a
29 physician assistant;

30 ~~[(10)]~~ (11) "Plan of treatment", a plan reviewed and signed as often as necessary by a
31 physician, podiatrist, **advanced practice registered nurse**, nurse practitioner, clinical nurse
32 specialist, or a physician assistant, not to exceed sixty days in duration, and reviewed by a
33 physician at least once every six months, prescribing items and services for an individual
34 patient's condition;

35 ~~[(11)]~~ (12) "Podiatrist", a person licensed by the state board of podiatry pursuant to
36 the provisions of chapter 330 to practice in this state as a podiatrist;

37 ~~[(12)]~~ (13) "Subunit" or "subdivision", any organizational unit of a larger
38 organization which can be clearly defined as a separate entity within the larger structure,
39 which can meet all of the requirements of sections 197.400 to 197.475 independent of the
40 larger organization, which can be held accountable for the care of patients it is serving, and
41 which provides to all patients care and services meeting the standards and requirements of
42 sections 197.400 to 197.475.

197.405. No home health agency, including Medicare and Medicaid providers, shall
2 provide two or more of the home health services covered by subdivision ~~[(4)]~~ (5) of section
3 197.400 or shall hold itself out as providing such home health services or as a home health
4 agency unless it is licensed and registered in accordance with the provisions of sections
5 197.400 to 197.475.

197.445. 1. The department may adopt reasonable rules and standards necessary to
2 carry out the provisions of sections 197.400 to 197.477. The rules and standards adopted
3 shall not be less than the standards established by the federal government for home health
4 agencies under Title XVIII of the Federal Social Security Act. The reasonable rules and
5 standards shall be initially promulgated within one year of September 28, 1983.

6 2. The rules and standards adopted by the department pursuant to the provisions of
7 sections 197.400 to 197.477 shall apply to all health services covered by sections 197.400 to
8 197.477 rendered to any patient being served by a home health agency regardless of source of
9 payment for the service, patient's condition, or place of residence, at which the home health
10 services are ordered by the physician, podiatrist, **advanced practice registered nurse**, nurse
11 practitioner, clinical nurse specialist, or physician assistant. No rule or portion of a rule
12 promulgated pursuant to the authority of sections 197.400 to 197.477 shall become effective
13 unless it has been promulgated pursuant to the provisions of section 536.024.

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

9 2. Collaborative practice arrangements, which shall be in writing, may delegate to a
10 registered professional nurse the authority to administer, dispense or prescribe drugs and
11 provide treatment if the registered professional nurse is an advanced practice registered nurse
12 as defined in subdivision (2) of section 335.016. Collaborative practice arrangements may
13 delegate to an advanced practice registered nurse, as defined in section 335.016, the authority
14 to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of
15 section 195.017, and Schedule II - hydrocodone; except that, the collaborative practice
16 arrangement shall not delegate the authority to administer any controlled substances listed in
17 Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone for the purpose of
18 inducing sedation or general anesthesia for therapeutic, diagnostic, or surgical procedures.
19 Schedule III narcotic controlled substance and Schedule II - hydrocodone prescriptions shall
20 be limited to a one hundred twenty-hour supply without refill. Such collaborative practice
21 arrangements shall be in the form of written agreements, jointly agreed-upon protocols or
22 standing orders for the delivery of health care services. An advanced practice registered nurse
23 may prescribe buprenorphine for up to a thirty-day supply without refill for patients receiving
24 medication-assisted treatment for substance use disorders under the direction of the
25 collaborating physician.

26 3. The written collaborative practice arrangement shall contain at least the following
27 provisions:

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

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

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

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

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

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

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

54 ~~(e)]~~ Provide coverage during absence, incapacity, infirmity, or emergency by the
55 collaborating physician;

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

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

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

64 (9) A description of the time and manner of the collaborating physician's review of
65 the advanced practice registered nurse's delivery of health care services~~].—The description
66 shall include provisions that the advanced practice registered nurse shall submit a minimum~~

67 of ten percent of the charts documenting the advanced practice registered nurse's delivery of
68 health care services to the collaborating physician for review by the collaborating physician,
69 or any other physician designated in the collaborative practice arrangement, every fourteen
70 days]; and

71 (10) The collaborating physician, or any other physician designated in the
72 collaborative practice arrangement, shall review every fourteen days a minimum of twenty
73 percent of the charts in which the advanced practice registered nurse prescribes controlled
74 substances. ~~[The charts reviewed under this subdivision may be counted in the number of~~
75 ~~charts required to be reviewed under subdivision (9) of this subsection.]~~

76 4. The state board of registration for the healing arts pursuant to section 334.125 and
77 the board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the
78 use of collaborative practice arrangements. Such rules shall be limited to ~~[specifying~~
79 ~~geographic areas to be covered,]~~ the methods of treatment that may be covered by
80 collaborative practice arrangements and the requirements for review of services provided
81 pursuant to collaborative practice arrangements including delegating authority to prescribe
82 controlled substances. Any rules relating to dispensing or distribution of medications or
83 devices by prescription or prescription drug orders under this section shall be subject to the
84 approval of the state board of pharmacy. Any rules relating to dispensing or distribution of
85 controlled substances by prescription or prescription drug orders under this section shall be
86 subject to the approval of the department of health and senior services and the state board of
87 pharmacy. In order to take effect, such rules shall be approved by a majority vote of a
88 quorum of each board. Neither the state board of registration for the healing arts nor the
89 board of nursing may separately promulgate rules relating to collaborative practice
90 arrangements. Such jointly promulgated rules shall be consistent with guidelines for
91 federally funded clinics. The rulemaking authority granted in this subsection shall not extend
92 to collaborative practice arrangements of hospital employees providing inpatient care within
93 hospitals as defined pursuant to chapter 197 or population-based public health services as
94 defined by 20 CSR 2150-5.100 as of April 30, 2008.

95 5. The state board of registration for the healing arts shall not deny, revoke, suspend
96 or otherwise take disciplinary action against a physician for health care services delegated to a
97 registered professional nurse provided the provisions of this section and the rules
98 promulgated thereunder are satisfied. Upon the written request of a physician subject to a
99 disciplinary action imposed as a result of an agreement between a physician and a registered
100 professional nurse or registered physician assistant, whether written or not, prior to August
101 28, 1993, all records of such disciplinary licensure action and all records pertaining to the
102 filing, investigation or review of an alleged violation of this chapter incurred as a result of
103 such an agreement shall be removed from the records of the state board of registration for the

104 healing arts and the division of professional registration and shall not be disclosed to any
105 public or private entity seeking such information from the board or the division. The state
106 board of registration for the healing arts shall take action to correct reports of alleged
107 violations and disciplinary actions as described in this section which have been submitted to
108 the National Practitioner Data Bank. In subsequent applications or representations relating to
109 his **or her** medical practice, a physician completing forms or documents shall not be required
110 to report any actions of the state board of registration for the healing arts for which the
111 records are subject to removal under this section.

112 6. Within thirty days of any change and on each renewal, the state board of
113 registration for the healing arts shall require every physician to identify whether the physician
114 is engaged in any collaborative practice agreement, including collaborative practice
115 agreements delegating the authority to prescribe controlled substances, or physician
116 assistant agreement and also report to the board the name of each licensed professional
117 with whom the physician has entered into such agreement. The board may make this
118 information available to the public. The board shall track the reported information and may
119 routinely conduct random reviews of such agreements to ensure that agreements are carried
120 out for compliance under this chapter.

121 7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as
122 defined in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services
123 without a collaborative practice arrangement provided that he or she is under the supervision
124 of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if
125 needed. Nothing in this subsection shall be construed to prohibit or prevent a certified
126 registered nurse anesthetist as defined in subdivision (8) of section 335.016 from entering into
127 a collaborative practice arrangement under this section, except that the collaborative practice
128 arrangement may not delegate the authority to prescribe any controlled substances listed in
129 Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone.

130 8. A collaborating physician shall not enter into a collaborative practice arrangement
131 with more than six full-time equivalent advanced practice registered nurses, full-time
132 equivalent licensed physician assistants, or full-time equivalent assistant physicians, or any
133 combination thereof. This limitation shall not apply to collaborative arrangements of hospital
134 employees providing inpatient care service in hospitals as defined in chapter 197 or
135 population-based public health services as defined by 20 CSR 2150-5.100 as of April 30,
136 2008, or to a certified registered nurse anesthetist providing anesthesia services under the
137 supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately
138 available if needed as set out in subsection 7 of this section.

139 9. It is the responsibility of the collaborating physician to determine and document
140 the completion of [~~at least a one-month~~] a period of time during which the advanced practice

141 registered nurse shall practice with the collaborating physician continuously present before
142 practicing in a setting where the collaborating physician is not continuously present. This
143 limitation shall not apply to collaborative arrangements of providers of population-based
144 public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

145 10. No agreement made under this section shall supersede current hospital licensing
146 regulations governing hospital medication orders under protocols or standing orders for the
147 purpose of delivering inpatient or emergency care within a hospital as defined in section
148 197.020 if such protocols or standing orders have been approved by the hospital's medical
149 staff and pharmaceutical therapeutics committee.

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

159 12. No contract or other agreement shall require any advanced practice registered
160 nurse to serve as a collaborating advanced practice registered nurse for any collaborating
161 physician against the advanced practice registered nurse's will. An advanced practice
162 registered nurse shall have the right to refuse to collaborate, without penalty, with a particular
163 physician.

335.175. 1. No later than January 1, 2014, there is hereby established within the state
2 board of registration for the healing arts and the state board of nursing the "Utilization of
3 Telehealth by Nurses". ~~[An advanced practice registered nurse (APRN) providing nursing
4 services under a collaborative practice arrangement under section 334.104 may provide such
5 services outside the geographic proximity requirements of section 334.104 if the
6 collaborating physician and advanced practice registered nurse utilize telehealth in the care
7 of the patient and if the services are provided in a rural area of need.]~~ Telehealth providers
8 shall be required to obtain patient consent before telehealth services are initiated and ensure
9 confidentiality of medical information.

10 2. As used in this section, "telehealth" shall have the same meaning as such term is
11 defined in section 191.1145.

12 3. (1) The boards shall jointly promulgate rules governing the practice of telehealth
13 under this section. Such rules shall address, but not be limited to, appropriate standards for
14 the use of telehealth.

15 (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is
16 created under the authority delegated in this section shall become effective only if it complies
17 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
18 This section and chapter 536 are nonseverable and if any of the powers vested with the
19 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
20 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
21 rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid
22 and void.

23 ~~[4. For purposes of this section, "rural area of need" means any rural area of this state~~
24 ~~which is located in a health professional shortage area as defined in section 354.650.]~~

Section B. Because immediate action is necessary to increase the independence of
2 certain health care professionals in order to ensure the residents of this state have access to
3 health care during the ongoing COVID-19 pandemic, section A of this act is deemed
4 necessary for the immediate preservation of the public health, welfare, peace, and safety, and
5 is hereby declared to be an emergency act within the meaning of the constitution, and section
6 A of this act shall be in full force and effect upon its passage and approval.

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