

SECOND REGULAR SESSION

HOUSE BILL NO. 1981

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOK.

4595H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 195.070 and 334.104, RSMo, and to enact in lieu thereof two new sections relating to the administration of controlled substances by 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Section A. Sections 195.070 and 334.104, RSMo, are repealed and two new sections
2 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
2 administer pharmaceutical agents as provided in section 336.220, or an assistant physician in
3 accordance with section 334.037 or a physician assistant in accordance with section 334.747
4 in good faith and in the course of his or her professional practice only, may prescribe,
5 administer, and dispense controlled substances or he or she may cause the same to be
6 administered or dispensed by an individual as authorized by statute.

7 2. An advanced practice registered nurse, as defined in section 335.016, but not a
8 certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who
9 holds a certificate of controlled substance prescriptive authority from the board of nursing
10 under section 335.019 and who is delegated the authority to prescribe controlled substances
11 under a collaborative practice arrangement under section 334.104 may prescribe any
12 controlled substances listed in Schedules III, IV, and V of section 195.017, and may have
13 restricted authority in Schedule II. Prescriptions for Schedule II medications prescribed by an
14 advanced practice registered nurse who has a certificate of controlled substance prescriptive
15 authority are restricted to only those medications containing hydrocodone and Schedule II
16 controlled substances for hospice patients pursuant to the provisions of section 334.104.
17 However, no such certified advanced practice registered nurse shall prescribe controlled

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.

18 substance for his or her own self or family. Schedule III narcotic controlled substance and
19 Schedule II - hydrocodone prescriptions shall be limited to a one hundred twenty-hour supply
20 without refill.

21 3. A certified registered nurse anesthetist, as defined in section 335.016, may
22 select, issue orders for, and administer controlled substances listed in Schedules II, III,
23 IV, and V of section 195.017 for and during the course of providing anesthesia care to a
24 patient in a licensed facility in accordance with state law, provided that the provisions of
25 this subsection shall not be construed to authorize a certified registered nurse
26 anesthetist to prescribe such controlled substances. Notwithstanding any other
27 provision of law, a certified registered nurse anesthetist shall not be required to
28 obtain a certificate of controlled substance prescriptive authority from the board of
29 nursing under section 335.019 in order to exercise the authority provided in this
30 subsection.

31 4. A veterinarian, in good faith and in the course of the veterinarian's professional
32 practice only, and not for use by a human being, may prescribe, administer, and dispense
33 controlled substances and the veterinarian may cause them to be administered by an assistant
34 or orderly under his or her direction and supervision.

35 ~~[4-]~~ 5. A practitioner shall not accept any portion of a controlled substance unused by
36 a patient, for any reason, if such practitioner did not originally dispense the drug, except:

37 (1) When the controlled substance is delivered to the practitioner to administer to the
38 patient for whom the medication is prescribed as authorized by federal law. Practitioners
39 shall maintain records and secure the medication as required by this chapter and regulations
40 promulgated pursuant to this chapter; or

41 (2) As provided in section 195.265.

42 ~~[5-]~~ 6. An individual practitioner shall not prescribe or dispense a controlled
43 substance for such practitioner's personal use except in a medical emergency.

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. (1) Collaborative practice arrangements, which shall be in writing, may delegate to
10 a 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~~ **prescribe** any controlled
17 substances listed in Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone
18 for the purpose of inducing sedation or general anesthesia for therapeutic, diagnostic, or
19 surgical procedures. Schedule III narcotic controlled substance and Schedule II -
20 hydrocodone prescriptions shall be limited to a one hundred twenty-hour supply without
21 refill.

22 (2) Notwithstanding any other provision of this section to the contrary, a collaborative
23 practice arrangement may delegate to an advanced practice registered nurse the authority to
24 administer, dispense, or prescribe Schedule II controlled substances for hospice patients;
25 provided, that the advanced practice registered nurse is employed by a hospice provider
26 certified pursuant to chapter 197 and the advanced practice registered nurse is providing care
27 to hospice patients pursuant to a collaborative practice arrangement that designates the
28 certified hospice as a location where the advanced practice registered nurse is authorized to
29 practice and prescribe.

30 (3) Such collaborative practice arrangements shall be in the form of written
31 agreements, jointly agreed-upon protocols or standing orders for the delivery of health care
32 services.

33 (4) An advanced practice registered nurse may prescribe buprenorphine for up to a
34 thirty-day supply without refill for patients receiving medication-assisted treatment for
35 substance use disorders under the direction of the collaborating physician.

36 3. The written collaborative practice arrangement shall contain at least the following
37 provisions:

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

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

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

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

49 (5) The manner of collaboration between the collaborating physician and the
50 advanced practice registered nurse, including how the collaborating physician and the
51 advanced practice registered nurse will:

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

54 (b) Maintain geographic proximity, except as specified in this paragraph. The
55 following provisions shall apply with respect to this requirement:

56 a. Until August 28, 2025, an advanced practice registered nurse providing services in
57 a correctional center, as defined in section 217.010, and his or her collaborating physician
58 shall satisfy the geographic proximity requirement if they practice within two hundred miles
59 by road of one another. An incarcerated patient who requests or requires a physician
60 consultation shall be treated by a physician as soon as appropriate;

61 b. The collaborative practice arrangement may allow for geographic proximity to be
62 waived for a maximum of twenty-eight days per calendar year for rural health clinics as
63 defined by Pub.L. 95-210 (42 U.S.C. Section 1395x, as amended), as long as the collaborative
64 practice arrangement includes alternative plans as required in paragraph (c) of this
65 subdivision. This exception to geographic proximity shall apply only to independent rural
66 health clinics, provider-based rural health clinics where the provider is a critical access
67 hospital as provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics
68 where the main location of the hospital sponsor is greater than fifty miles from the clinic;

69 c. The collaborative practice arrangement may allow for geographic proximity to be
70 waived when the arrangement outlines the use of telehealth, as defined in section 191.1145;

71 d. In addition to the waivers and exemptions provided in this subsection, an
72 application for a waiver for any other reason of any applicable geographic proximity shall be
73 available if a physician is collaborating with an advanced practice registered nurse in excess
74 of any geographic proximity limit. The board of nursing and the state board of registration
75 for the healing arts shall review each application for a waiver of geographic proximity and
76 approve the application if the boards determine that adequate supervision exists between the
77 collaborating physician and the advanced practice registered nurse. The boards shall have
78 forty-five calendar days to review the completed application for the waiver of geographic
79 proximity. If no action is taken by the boards within forty-five days after the submission of
80 the application for a waiver, then the application shall be deemed approved. If the application
81 is denied by the boards, the provisions of section 536.063 for contested cases shall apply and
82 govern proceedings for appellate purposes; and

83 e. The collaborating physician is required to maintain documentation related to this
84 requirement and to present it to the state board of registration for the healing arts when
85 requested; and

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

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

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

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

96 (9) A description of the time and manner of the collaborating physician's review of
97 the advanced practice registered nurse's delivery of health care services. The description shall
98 include provisions that the advanced practice registered nurse shall submit a minimum of ten
99 percent of the charts documenting the advanced practice registered nurse's delivery of health
100 care services to the collaborating physician for review by the collaborating physician, or any
101 other physician designated in the collaborative practice arrangement, every fourteen days;

102 (10) The collaborating physician, or any other physician designated in the
103 collaborative practice arrangement, shall review every fourteen days a minimum of twenty
104 percent of the charts in which the advanced practice registered nurse prescribes controlled
105 substances. The charts reviewed under this subdivision may be counted in the number of
106 charts required to be reviewed under subdivision (9) of this subsection; and

107 (11) If a collaborative practice arrangement is used in clinical situations where a
108 collaborating advanced practice registered nurse provides health care services that include the
109 diagnosis and initiation of treatment for acutely or chronically ill or injured persons, then the
110 collaborating physician or any other physician designated in the collaborative practice
111 arrangement shall be present for sufficient periods of time, at least once every two weeks,
112 except in extraordinary circumstances that shall be documented, to participate in a chart
113 review and to provide necessary medical direction, medical services, consultations, and
114 supervision of the health care staff.

115 4. The state board of registration for the healing arts pursuant to section 334.125 and
116 the board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the
117 use of collaborative practice arrangements. Such rules shall be limited to the methods of
118 treatment that may be covered by collaborative practice arrangements and the requirements
119 for review of services provided pursuant to collaborative practice arrangements including
120 delegating authority to prescribe controlled substances. Any rules relating to geographic
121 proximity shall allow a collaborating physician and a collaborating advanced practice
122 registered nurse to practice within two hundred miles by road of one another until August 28,

123 2025, if the nurse is providing services in a correctional center, as defined in section 217.010.
124 Any rules relating to dispensing or distribution of medications or devices by prescription or
125 prescription drug orders under this section shall be subject to the approval of the state board
126 of pharmacy. Any rules relating to dispensing or distribution of controlled substances by
127 prescription or prescription drug orders under this section shall be subject to the approval of
128 the department of health and senior services and the state board of pharmacy. In order to take
129 effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the
130 state board of registration for the healing arts nor the board of nursing may separately
131 promulgate rules relating to collaborative practice arrangements. Such jointly promulgated
132 rules shall be consistent with guidelines for federally funded clinics. The rulemaking
133 authority granted in this subsection shall not extend to collaborative practice arrangements of
134 hospital employees providing inpatient care within hospitals as defined pursuant to chapter
135 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April
136 30, 2008.

137 5. The state board of registration for the healing arts shall not deny, revoke, suspend
138 or otherwise take disciplinary action against a physician for health care services delegated to a
139 registered professional nurse provided the provisions of this section and the rules
140 promulgated thereunder are satisfied. Upon the written request of a physician subject to a
141 disciplinary action imposed as a result of an agreement between a physician and a registered
142 professional nurse or registered physician assistant, whether written or not, prior to August
143 28, 1993, all records of such disciplinary licensure action and all records pertaining to the
144 filing, investigation or review of an alleged violation of this chapter incurred as a result of
145 such an agreement shall be removed from the records of the state board of registration for the
146 healing arts and the division of professional registration and shall not be disclosed to any
147 public or private entity seeking such information from the board or the division. The state
148 board of registration for the healing arts shall take action to correct reports of alleged
149 violations and disciplinary actions as described in this section which have been submitted to
150 the National Practitioner Data Bank. In subsequent applications or representations relating to
151 his or her medical practice, a physician completing forms or documents shall not be required
152 to report any actions of the state board of registration for the healing arts for which the
153 records are subject to removal under this section.

154 6. Within thirty days of any change and on each renewal, the state board of
155 registration for the healing arts shall require every physician to identify whether the physician
156 is engaged in any collaborative practice arrangement, including collaborative practice
157 arrangements delegating the authority to prescribe controlled substances, or physician
158 assistant collaborative practice arrangement and also report to the board the name of each
159 licensed professional with whom the physician has entered into such arrangement. The board

160 shall make this information available to the public. The board shall track the reported
161 information and may routinely conduct random reviews of such arrangements to ensure that
162 arrangements are carried out for compliance under this chapter.

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

172 8. A collaborating physician shall not enter into a collaborative practice arrangement
173 with more than six full-time equivalent advanced practice registered nurses, full-time
174 equivalent licensed physician assistants, or full-time equivalent assistant physicians, or any
175 combination thereof. This limitation shall not apply to collaborative arrangements of hospital
176 employees providing inpatient care service in hospitals as defined in chapter 197 or
177 population-based public health services as defined by 20 CSR 2150-5.100 as of April 30,
178 2008, or to a certified registered nurse anesthetist providing anesthesia services under the
179 supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately
180 available if needed as set out in subsection 7 of this section.

181 9. It is the responsibility of the collaborating physician to determine and document
182 the completion of at least a one-month period of time during which the advanced practice
183 registered nurse shall practice with the collaborating physician continuously present before
184 practicing in a setting where the collaborating physician is not continuously present. This
185 limitation shall not apply to collaborative arrangements of providers of population-based
186 public health services, as defined by 20 CSR 2150-5.100 as of April 30, 2008, or to
187 collaborative practice arrangements between a primary care physician and a primary care
188 advanced practice registered nurse or a behavioral health physician and a behavioral health
189 advanced practice registered nurse, where the collaborating physician is new to a patient
190 population to which the advanced practice registered nurse is familiar.

191 10. No agreement made under this section shall supersede current hospital licensing
192 regulations governing hospital medication orders under protocols or standing orders for the
193 purpose of delivering inpatient or emergency care within a hospital as defined in section
194 197.020 if such protocols or standing orders have been approved by the hospital's medical
195 staff and pharmaceutical therapeutics committee.

196 11. No contract or other term of employment shall require a physician to act as a
197 collaborating physician for an advanced practice registered nurse against the physician's will.
198 A physician shall have the right to refuse to act as a collaborating physician, without penalty,
199 for a particular advanced practice registered nurse. No contract or other agreement shall limit
200 the collaborating physician's ultimate authority over any protocols or standing orders or in the
201 delegation of the physician's authority to any advanced practice registered nurse, but this
202 requirement shall not authorize a physician in implementing such protocols, standing orders,
203 or delegation to violate applicable standards for safe medical practice established by hospital's
204 medical staff.

205 12. No contract or other term of employment shall require any advanced practice
206 registered nurse to serve as a collaborating advanced practice registered nurse for any
207 collaborating physician against the advanced practice registered nurse's will. An advanced
208 practice registered nurse shall have the right to refuse to collaborate, without penalty, with a
209 particular physician.

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