

SECOND REGULAR SESSION

HOUSE BILL NO. 1636

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OVERCAST.

4820H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 334.104, RSMo, and to enact in lieu thereof one new section relating to advanced practice registered nurses.

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

Section A. Section 334.104, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 334.104, to read as follows:

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

2. (1) Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice registered nurse as defined in subdivision (2) of section 335.016. Collaborative practice arrangements may delegate to an advanced practice registered nurse, as defined in section 335.016, the authority to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017, and Schedule II - hydrocodone; except that, the collaborative practice arrangement shall not delegate the authority to administer any controlled substances listed in Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone for the purpose of

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 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

114 4. The state board of registration for the healing arts pursuant to section 334.125 and
115 the board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the
116 use of collaborative practice arrangements. Such rules shall be limited to the methods of
117 treatment that may be covered by collaborative practice arrangements and the requirements
118 for review of services provided pursuant to collaborative practice arrangements including
119 delegating authority to prescribe controlled substances. ~~[Any rules relating to geographic
120 proximity shall allow a collaborating physician and a collaborating advanced practice
121 registered nurse to practice within two hundred miles by road of one another until August 28,
122 2025, if the nurse is providing services in a correctional center, as defined in section 217.010.]~~
123 **The state board of registration for the healing arts and the board of nursing shall not**
124 **promulgate rules to enforce any geographic proximity restrictions, including any**
125 **mileage or distance restrictions for advanced practice registered nurses or physicians,**
126 **for collaborative practice arrangements. Any rules governing geographic proximity in**
127 **effect before August 28, 2026, shall no longer be effective. Any collaborative practice**

arrangements that contain provisions relating to geographic proximity requirements shall be deemed unenforceable. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. Any rules relating to dispensing or distribution of controlled substances by prescription or prescription drug orders under this section shall be subject to the approval of the department of health and senior services and the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

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

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

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

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

177 8. A collaborating physician shall not enter into a collaborative practice arrangement
178 with more than six full-time equivalent advanced practice registered nurses, full-time
179 equivalent licensed physician assistants, or full-time equivalent assistant physicians, or any
180 combination thereof. This limitation shall not apply to collaborative arrangements of hospital
181 employees providing inpatient care service in hospitals as defined in chapter 197 or
182 population-based public health services as defined by 20 CSR 2150-5.100 as of April 30,
183 2008, or to a certified registered nurse anesthetist providing anesthesia services under the
184 supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately
185 available if needed as set out in subsection 7 of this section.

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

196 10.] No agreement made under this section shall supersede current hospital licensing
197 regulations governing hospital medication orders under protocols or standing orders for the
198 purpose of delivering inpatient or emergency care within a hospital as defined in section
199 197.020 if such protocols or standing orders have been approved by the hospital's medical
200 staff and pharmaceutical therapeutics committee.

201 ~~[11.]~~ **10.** No contract or other term of employment shall require a physician to act as a
202 collaborating physician for an advanced practice registered nurse against the physician's will.
203 A physician shall have the right to refuse to act as a collaborating physician, without penalty,
204 for a particular advanced practice registered nurse. No contract or other agreement shall limit
205 the collaborating physician's ultimate authority over any protocols or standing orders or in the
206 delegation of the physician's authority to any advanced practice registered nurse, but this
207 requirement shall not authorize a physician in implementing such protocols, standing orders,
208 or delegation to violate applicable standards for safe medical practice established by hospital's
209 medical staff.

210 ~~[12.]~~ **11.** No contract or other term of employment shall require any advanced practice
211 registered nurse to serve as a collaborating advanced practice registered nurse for any
212 collaborating physician against the advanced practice registered nurse's will. An advanced
213 practice registered nurse shall have the right to refuse to collaborate, without penalty, with a
214 particular physician.

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